

**LEGISLATIVE
ENACTMENTS**
(Consolidated 1980)
Volume -3
(I-M)

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CHAPTER 12

INTERPRETATION

Ordinances AN ORDINANCE FOR DEFINING THE MEANING OF CERTAIN TERMS AND FOR SHORTENING THE LANGUAGE USED IN ENACTMENTS AND OTHER WRITTEN LAWS AND FOR OTHER PURPOSES.

Nos. 21 of 1901
22 of 1912
2 of 1913
8 of 1916
20 of 1924
8 of 1931
2 of 1947

Acts
Nos. 5 of 1954.
17 of 1965.
29 of 1971.
18 of 1972.

Law
No. 29 of 1974.

[3rd December, 1901.]

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

Interpretation. **2.** In this Ordinance and in every written law, whether made before or after the commencement of this Ordinance, unless there be something repugnant in the subject or context-

- (a) "abet" with its grammatical variations and cognate expressions, shall have the same meaning as in the Penal Code;
- (b) " Act" or " Act of Parliament " shall mean an enactment of the Legislature of Ceylon or Sri Lanka, as the case may be, enacted on or after the 14th day of October, 1947, other than a Law enacted by the National State Assembly;
- (c) " Attorney-General! " shall mean the Attorney-General of Sri Lanka, and shall include an acting Attorney-General;
- (d) "Chapter", " Part " , section ", and "Schedule" shall denote respectively a chapter, part, and section of, and schedule to, the enactment in which the word occurs, and " subsection " shall denote a subsection of the section in which the word occurs;
- (e) " commencement", used with reference to an enactment, shall mean the day on which such enactment comes into force ; and

" operation ". used with reference to an enactment which is not to take effect immediately upon coming into force, shall mean the day on which such enactment takes effect;

(f) "enactment" shall mean any Ordinance, Law or Act enacted by the Legislature of Ceylon or Sri Lanka, as the case may be, and shall include -

- (i) the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978;
- (ii) any enactment having the force of law in Sri Lanka and promulgated in the form of a proclamation or regulation prior to the 1st day of January, 1834 ;
- (iii) the Tesawalamai or the laws and customs of the Malabars of Jaffna promulgated by the Dutch Government of Ceylon in the year seventeen hundred and seven, and referred to in the Tesawalamai Regulation ; and
- (iv) the Ceylon (Parliamentary Elections) Order in Council. 1946.

(g) " foreign country " or " foreign State " shall mean any country or State other than Sri Lanka ;

- * (h) " Full Moon Poya Day " shall have the same meaning as in the Holidays Act, and the expression " Full Moon Poya Days " shall be construed accordingly;
- (i) " Gazette " or " Government Gazette " shall mean the Gazette published by the order of the Government of Sri Lanka, and shall include any Extraordinary Gazette so published;
- (j) " Law " shall mean an enactment of the National State Assembly constituted under the Constitution of Sri Lanka adopted and enacted on the 22nd day of May, 1972 ;
- (ja) " 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;
- (k) " master " used with reference to a ship shall mean any person (except a pilot) having for the time being control or charge of a ship ;
- (l) " Member of Parliament " shall mean a Member of the Parliament of the Democratic Socialist Republic of Sri Lanka;
- (m) " Minister " used with reference to any subject or function of Government shall mean the Minister to whom that subject or function has been assigned by the President and includes a person duly appointed to act in the place of such Minister;
- (n) " Ministry " or " Ministry charged with ", with reference to any subject or function shall mean the Ministry of the Minister to whom that subject or function has been assigned by the President;
- (o) " month " shall mean a calendar month, unless words be added showing lunar months to be intended;
- (p) " oath " and " affidavit " shall, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and " swear " shall, in the like case, include affirm and declare ;
- (q) " Ordinance " shall mean an enactment enacted prior to the 14th day of October, 1947;
- (r) " Parliament " shall mean the Parliament constituted in accordance with the provisions of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978;
- (s) " person " includes any body of persons corporate or unincorporate;
- (t) " prescribed " shall mean prescribed by the enactment in which the word occurs or by any rule, regulation, by-law, proclamation or order made thereunder;
- (u) " President " shall mean the President of the Democratic Socialist Republic of Sri Lanka, and shall include any person duly appointed or designated to exercise, perform and discharge the powers, duties and functions of his office ;
- * (v) " public holiday " shall have the same meaning as in the Holidays Act, and the expression " public holidays " shall be construed accordingly;
- (w) " registered " used with reference to a document shall mean registered under the provisions of the law for the time being applicable to the registration of such document;
- (x) " rigorous imprisonment ", " simple imprisonment ", and " imprisonment of either description " shall have the same meaning as in the Penal Code, and " imprisonment " shall mean simple imprisonment;

* Sec Gazelle Extraordinary No. 14,984/44 of 1971.11.15.

- (y) " Secretary " used in relation to any Ministry shall mean the Secretary to the Ministry of the Minister to whom the relevant subject or function has been assigned ;
- (z) " sign " with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include " mark " with its grammatical variations and cognate expressions;
- (aa) " Solicitor-General " shall mean the Solicitor-General of Sri Lanka, and shall include an Additional Solicitor-General and a Deputy Solicitor-General, and any officer acting in the place of the Solicitor-General, Additional Solicitor-General or peputy Solicitor-General;
- (bb) " State Counsel " shall include a Senior Slate Counsel and an acting State Counsel and an acting Senior State Counsel;
- (cc) " the Constitution " shall mean the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.
- (dd) " the Oovernment ", where no other mc;ining is indicated by any descriptive or qualifying words or by the context, and " the Sri Lanka Government " or " the Government of Sri Lanka " or " the Government of this Island " or " the Government of the Island of Sri Lanka " or " the Government of the Republic " shall mean the Government of the Republic constituted under ihe Constitution of the Democratic Socialist Republic of Sri Lanka, 1978;
- (ee) " the Island " and " this Island ", " Ceylon " and " Sri Lanka " shall mean the Island of Sn Lanka or of Ceylon, as required by the context;
- (ff) " the Legislature " shall mean the Parliament constituted under the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978, and shall include any person or body of persons empowered during any period of time to exercise legislative power in Ceylon or Sri Lanka ;
- (gg) " Ins State_w or " the Republic " or " the Republic of Sri Lanka " shall mean the Democratic Socialist Republic of Sri Lanka ;
- (hh) " the United Kingdom " shallLmean the United Kingdom of Great Britain and Northern Ireland ;
- (ii) " value " used with reference to a suit shall mean the amount or value of the subject-matter of the suit;
- (jj) " will " shall include a codicil;
- (kk) " written law " shall mean and include all Ordinances, Laws and Acts of the Legislature of Ceylon or Sri Lanka and all orders, proclamations, rules, by-laws, regulations, warrants and process of every kind made or issued by any body or person having authority under any statutory or other enactment to make or issue the same in and for Ceylon or Sri Lanka or any part thereof, the Minutes on Pensions, and the Ceylon (Parliamentary Elections) Order-in-Council 1946;
- (ll) words importing the masculine gender shall be taken to include females ;
- (mm) words in the singular number shall include the plural, and vice versa.

3. No enactment shall in any manner affect the right of the State unless it is therein expressly stated, or unless it appears by necessary implication that the State is bound thereby. Savings of rights of the State.

4. Where any enactment or written law, whether passed or made before or after the commencement of this Ordinance, centers a power or imposes a duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires. Exercise of powers and duties.

Meaning of " the principal Ordinance ", " the principal Law", and " the principal Act."

5. (1) In any enactment which amends any other enactment, the expression " the principal Ordinance " or " the principal Law " or " the principal Act " shall mean the enactment which is amended.

(2) Every amending enactment shall be read as one with the principal enactment to which it relates.

Effect of repeal or expiration of written law.

6. (1) Whenever any written law repealing either in whole or part a former written law is itself repealed, such repeal shall not, in the absence of any express provision to that effect, revive or be deemed to have revived the repealed written law, or any right, office, privilege, matter, or thing not in force or existing when the repealing written law comes into operation.

(2) Whenever any written law repeals in whole or part a former written law and substitutes therefor some new provision, such repeal shall not take effect until such substituted provision comes into operation.

(3) Whenever any written law repeals either in whole or part a former written law, such repeal shall not, in the absence of any express provision to that effect, affect or be deemed to have affected-

- (a) the past operation of or anything duly done or suffered under the repealed written law;
- (b) any offence committed, any right, liberty, or penalty acquired or incurred under the repealed written law;
- (c) any action, proceeding, or thing pending or incompleated when the repealing written law comes into operation, but every such action, proceeding, or thing may be carried on and completed as if there had been no such repeal.

(4) Subsection (3) shall apply in the case of the expiration of any written law in like manner as though that written law had been repealed and had not expired.

(5) This section shall apply to written laws made as well before as after the commencement of this Ordinance.

7. Whereby any enactment which is not to come into operation immediately on the passing thereof a power is conferred on any person or body of persons to make rules or to issue orders with respect to the application of such enactment, or with respect to the establishment of any office or the appointment of any officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which anything is to be done under such enactment, the power may be exercised at any time after the passing of such enactment, but rules or orders so made or issued shall not take effect until such enactment comes or is brought into operation.

In this section, " rules" includes regulations and by-laws.

8. (1) Where a limited time date or from the happening of any event is appointed or allowed by any written law for the doing of any act or the taking of any proceeding in a court or office, and the last day of the limited time is a day on which the court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day thereafter on which the court or office is open.

(2) Where by any written law any act or proceeding is directed or allowed to be done or taken in a court or office on a certain day, then if the court or office is closed on that day the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day thereafter on which the court or office is open.

(3) Where a limited time not exceeding six days from any date or from the happening of any event is appointed or allowed by any written law for the doing of any act or the taking of any proceeding in a court or office, every intervening public holiday shall be excluded from the computation of such time.

(4) Where by any written law a day is named for the doing or taking of any act or proceeding not being an act or proceeding to be done or taken in a court or office or for the happening of any event, and that day falls upon a public holiday, such written law shall be read as if the first lawful day next succeeding such public holiday had been named.

Making of rules in interval between passing and operation of enactment.

Computation of time.

(5) This section shall apply to written laws made as well before as after the commencement of this Ordinance.

Provisions as to offences under two or more laws.

9. Where any act or omission constitutes an offence under two or more laws, whether either or any of such laws came into force before or after the commencement of this Ordinance, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those laws, but shall not be liable to be punished twice for the same offence.

Construction of enactments declaring offence summarily triable.

10. Where in any enactment passed after the 16th day of January, 1912, it is declared that any offence shall be triable summarily, or by a Magistrate or a Judge of a Primary Court, or words are used implying that any offence shall be triable summarily or by a Magistrate or a Judge of a Primary Court, in any such case, unless the contrary intention appears, the Magistrate or Judge of the Primary Court trying the case shall be deemed to have power to inflict the full penalty prescribed for the offence, notwithstanding any limitation of his ordinary powers or jurisdiction.

Motions. &c. in Parliament on behalf of Ministers.

11. Any provision of written law requiring that any motion be moved or that any matter be brought or laid in or before Parliament by a Minister, shall be deemed to have been complied with, if, in the absence of that Minister from Parliament, the motion is moved or the matter is so brought or laid, on behalf of that Minister, by any other Minister or a Deputy Minister.

Power to make appointments.

12. Where in the case of any appointment authorized by any law, provision is not made by the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978, or by any other law, as to the authority by whom the appointment is to be made, such appointment may be made by the Minister or by an officer authorized in that behalf by the Minister.

Discharge of functions of Crown Agents.

13. Where any written law requires or authorizes any duty or function to be performed or discharged by the Crown Agents, such duty or function may be performed or discharged by any person to whom such duty or function is assigned by the Minister.

14. In all enactments-

(a) for the purpose of excluding the first in a series of days or any period of time, it shall be deemed to have been and to be sufficient to use the word "from";

(b) for the purpose of including the last in a series of days or any period of time, it shall be deemed to have been and to be sufficient to use the word "to";

(c) for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in place of such chief or superior, it shall be deemed to have been and to be sufficient to prescribe the duty of such chief or superior;

(d) for the purpose of indicating the relation of a law to the successors of any functionaries or corporations having perpetual succession, it shall be deemed to have been and to be sufficient to express its relation to the functionaries or corporations;

(e) for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be deemed to have been and to be sufficient to mention the official title of the officer executing such functions at the time of the passing of the enactment; and "

(f) for the purpose of conferring power to dismiss, suspend, or re-instate any officer, it shall be deemed to have been and to be sufficient to confer power to appoint him.

15. When any rules made under any enactment which has been repealed are kept in force by the repealing enactment, whether passed before or after the commencement of this Ordinance, such rules shall be deemed for all purposes to have been, and to be, made under the corresponding provisions of such repealing enactment, and shall be enforceable as if they had been so made.

Commencement of time.

Termination of time.

Official chiefs and subordinates.

Successors.

Substitution of functionaries.

Appointments and dismissals.

Where rules made under repealed law are kept in force by repealing law, such rules to be deemed to be made under repealing law.

Reference to repealed enactments.

16. (1) Where in any written law or document reference is made to any written law which is subsequently repealed, such reference shall be deemed to be made to the written law by which the repeal is effected or to the corresponding portion thereof.

(2) This section shall apply to written laws and documents made as well before as after the commencement of this Ordinance.

General provisions with respect to power given to any authority to make rules.

17. (1) Where any enactment, whether passed before or after the commencement of this Ordinance, confers power on any authority to make rules, the following provisions shall, unless the contrary intention appears, have effect with reference to the making and operation of such rules :-

(a) any rule may be at any time amended, varied, rescinded, or revoked by the same authority and in the same manner by and in which it was made;

(b) there may be attached to the breach of any rule such penalty not exceeding fifty rupees as the authority making the rule may think fit, and any such penalty may be recovered in the same manner as a fine imposed by a Magistrate's Court;

(c) no rule shall be inconsistent with the provisions of any enactment;

(d) power to make rules for regulation, supervision, protection, or control shall include power to make rules-

(i) for the issue of licences for the purpose of such regulation, supervision, protection, or control;

(ii) for the cancellation of such licences by a court on a second or subsequent conviction by such court for breach of any of the rules in connexion with which such licences were issued ;

(iii) for the refusal of licences in cases of non-compliance with the provisions of any rule so made. or in cases of persons

whose previous licences have been cancelled by a competent court;

(e) all rules shall be published in the Gazette and shall have the force of law as fully as if they had been enacted in the enactment of the Legislature; and

(f) the production of a copy of the Gazette containing any rule, or of any copy of any rule purporting to be printed by the Government Printer, shall be prima facie evidence in all courts and for all purposes whatsoever of the due making and tenor of such rule.

(2) In this section the expression " rules " includes rules and regulations, regulations, and by-laws.

(3) Where any enactment, whether passed before or after the commencement of this Ordinance, confers power on any authority to make rules, regulations, or by-law for any general purpose, and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose.

Special powers not to derogate from general powers.

18. Where any enactment, whether passed before or after the commencement of this Ordinance, confers power on any authority to issue any proclamation, or make any order or notification, any proclamation, order, or notification so issued or made may be at any time amended, varied, rescinded, or revoked by the same authority and in the same manner, and subject to the like consent and conditions, if any, by or in which or subject to which such proclamation, order, or notification may be issued or made.

Manner in which any proclamation, order, or notification may be amended, varied, or rescinded.

19. Where any enactment, whether passed before or after the commencement of this Ordinance, confers power to make, grant, or issue any instrument, that is to say, any proclamation, order, warrant, scheme, rules, regulations, or by-laws, expressions used in the instruments shall, unless the contrary intention appears, have the same respective meaning as in the enactment conferring the power.

Construction of statutory rules, &c.

Acts done under rules, &c., to be deemed done under enactment by which rules authorized.

20. An act shall be deemed to be done under any enactment, or by virtue of powers conferred by any enactment, or in pursuance or execution of the powers of or under the authority of any enactment, if it is done under or by virtue of or in pursuance of any rule, order, or by-law or regulation made under any power contained in such enactment.

provisions of any law is a condition precedent to the making or issuing of any such order, decision, determination, direction or finding, and the Supreme Court or the Court of Appeal, as the case may be, is satisfied that there has been no conformity with such rules of natural justice or no compliance with such mandatory provisions of such law :

Interpretation of the expression " shall not be called in question in any court."

[2, 18 of 1972.]

22.* Where there appears in any enactment, whether passed or made before or after the commencement of this Ordinance, the expression "shall not be called in question in any court ", or any other expression of similar import whether or not accompanied by the words " whether by way of writ or otherwise " in relation to any order, decision, determination, direction or finding which any person, authority or tribunal is empowered to make or issue under such enactment, no court shall, in any proceedings and upon any ground whatsoever, have jurisdiction to pronounce upon the validity or legality of such order, decision, determination, direction or finding, made or issued in the exercise or the apparent exercise of the power conferred on such person, authority or tribunal:

Provided further that the preceding provisions of this section shall not apply to the Court of Appeal in the exercise of its powers under Article 141 of the Constitution of the Republic of Sri Lanka to issue mandates in the nature of writs of habeas corpus.

Provided, however, that the preceding provisions of this section shall not apply to the Supreme Court or the Court of Appeal, as the case may be, in the exercise of its powers under Article 140 of the Constitution of the Republic of Sri Lanka in respect of the following matters, and the following matters only, that is to say-

23. Subject to the provisions of section 24, where a court of original civil jurisdiction is empowered by any enactment, whether passed or made before or after the commencement of this Ordinance, to declare a right or status, such enactment shall not be construed to empower such court to entertain or to enter decree or make any order in any action for a declaration of a right or status upon any ground whatsoever, arising out of or in respect of or in derogation of any order, decision, determination, direction or finding which any person, authority or tribunal is empowered to make or issue under any written law:

Construction of enactments giving power If courts to declare rights or status. [2, 18 of 1972.]

(a) where such order, decision, determination, direction or finding is *ex facie* not within the power conferred on such person, authority or tribunal making or issuing such order, decision, determination, direction or finding; and

Provided, however, that the provisions of this section shall not be deemed to affect the power of such court to make an order or decree relating to the payment of damages.

(b) where such person, authority or tribunal upon whom the power to make or issue such order, decision, determination, direction or finding is conferred, is bound to conform to the rules of natural justice, or where the compliance with any mandatory

24. (1) Nothing in any enactment, whether passed before or after the commencement of this Ordinance, shall be deemed to confer upon any court jurisdiction to grant injunctions or to make orders for specific performance against the State, a Minister or a Deputy Minister, upon any ground whatsoever.

Construction of enactments giving power to court to grant injunctions or make orders for specific performance. [2, Law 29 of 1974.]

(2) No court shall upon any ground whatsoever grant any injunction or make any order against a public officer, if the effect of the granting of such injunction or the making

Section 21 omitted.

of such order would be», whether directly or indirectly, to restrain the State, a Minister or a Deputy Minister from proceeding with, or to compel the performance by the State, a Minister or a Deputy Minister of, any matter or thing.

(3) Where before the coming into operation of this section, any injunction has been granted by any court, which injunction such court would not have had the jurisdiction to grant if this section had then been in operation, such injunction shall for all purposes be deemed to have been and to be null and void and of no force or effect in law.

(4) In this section, " injunction " includes a permanent or interim injunction, whether *ex parte* or otherwise, an enjoining order, or any other order having the effect of staying or restraining any person or authority referred to in the preceding subsections.

(5) The preceding provisions of this section shall not be deemed to affect the power of any court to make an order declaratory of the rights of parties.

(6) The provisions of this section shall have effect notwithstanding section 6 or any other provisions of this Ordinance or the provisions of any other law.

CHAPTER 103

INSOLVENTS

Ordinances AN ORDINANCE TO PROVIDE FOR THE DUE COLLECTION, ADMINISTRATION, AND
 Nos 7 of 1853, DISTRIBUTION OF INSOLVENT ESTATES.
 24 of 1884.

[2nd July. 1854.]

Short title. 1. This Ordinance may be cited as the Insolvency Ordinance. '

Cessio bonorum abolished.

2. It shall not be lawful for any person to obtain from any court within Sri Lanka, or for any such court to grant to any person, the benefit or relief of cession of goods and property commonly called the *cessio bonorum*, as heretofore known to and allowed by the Roman-Dutch law in force within Sri Lanka:

Provided that nothing herein contained shall be deemed or taken to affect in any way the estate or condition of any person to whom before the commencement of this Ordinance the said benefit or relief shall have been duly granted, which estate shall be administered, and which condition shall be judged of, as if this Ordinance had not been enacted.

Judges may make rules.

3. The Judges of the Supreme Court may from time to time make such rules and orders as they may think fit for the better carrying of this Ordinance into effect, and generally for regulating the practice of the District Court and the forms of proceedings under this Ordinance in all insolvency matters not provided for in this Ordinance.:

Provided that such rules and orders shall not be inconsistent with or repugnant to the provisions of this Ordinance, and that no such rules or orders shall be of any force or effect until they shall have been laid before Parliament and notified in the Gazette in manner provided in Article 136 of the Constitution.

4. The several District Courts throughout Sri Lanka shall be courts for the administration of insolvent estates under this Ordinance, and shall be auxiliary to each other for proof of debts and for the examination of persons or witnesses in all matters under this Ordinance, or for any or either of such purposes :

District Courts to be auxiliary to each other for proof of debts and taking examinations.

Provided that all such examinations shall be taken down in writing, and shall be transmitted to the court in which the petition for sequestration is being prosecuted, and shall be annexed to and form part of the proceedings in the matter to which the same shall relate, and that no such examination shall be taken without the request in writing of the Judge of the District Court before whom the matter is being prosecuted.

5. All decisions and orders of the District Courts made under the authority of this Ordinance shall be subject to an appeal to the Court of Appeal.

Appeals to Court of Appeal.

ACTS OF INSOLVENCY IN GENERAL

7.* If any person residing in Sri Lanka or having any property, real or personal, therein, shall depart therefrom, or being out of Sri Lanka shall remain abroad, or shall depart from his dwelling house, or otherwise absent himself, or begin to keep his house, or suffer himself to be arrested or taken in execution for any debt not due, or yield himself to prison, or procure himself to be arrested or taken in execution, or his goods, money, lands, or other property to be attached, sequestered, or taken in execution, or make or cause to be made, either in Sri Lanka

Acts of insolvency.

* Section 6 is omitted from this Edition, as the procedure relating to appeals is now regulated by the Civil Procedure Code.

or elsewhere, any fraudulent grant, conveyance, or mortgage of any of his lands or goods, or make or cause to be made any fraudulent gift, delivery, or transfer of any of his goods or other property, every such person doing, suffering, procuring, executing, permitting, making, or causing to be made any of the acts, deeds, or matters aforesaid, with intent to defeat or delay his creditors, shall be deemed to have thereby committed an act of insolvency.

Conveyance by a person of all his property to trustees not an act of insolvency, unless petition for sequestration is filed within three months.

8. If any person shall execute any conveyance or assignment by deed of all his property to a trustee or trustees for the benefit of all the creditors of such person, the execution of such deed shall not be deemed an act of insolvency, unless a petition for sequestration of the estate of such person be filed within three months from the execution thereof:

Provided such deed shall be executed by every such trustee within fifteen days after the execution thereof by such first-mentioned person, and notice thereof be given within one month after the execution thereof by such first-mentioned person in the Gazette and in some newspaper published in Colombo; and such notice shall contain the date and execution of such deed and the name and place of abode of every such trustee.

Lying in prison for twenty-one days, and escaping out of prison, acts of insolvency.

9. If any person having been arrested or committed to prison for debt or on any attachment for non-payment of money shall, upon such or any other arrest or commitment for debt or non-payment of money, or upon any detention for debt, lie in prison for twenty-one days, or having been arrested or committed to prison for any other cause shall lie in prison for twenty-one days after any writ of execution issued against him and not discharged, every such person shall thereby be deemed to have committed an act of insolvency; or if any such person having been arrested, committed, or detained for debt shall escape out of prison or custody, every such person shall be deemed to have thereby committed an act of insolvency from the time of such arrest, commitment, or detention.

Filing declaration of insolvency an act of insolvency.

10. If any person residing in Sri Lanka shall file in the District Court of the district in which he shall have resided or carried on business for six months next immediately preceding a declaration in writing in the

form A in the Schedule signed by such person and attested by an attorney-at-law, or some other witness, that he is unable to meet his engagements, every such person shall be deemed thereby to have committed an act of insolvency at the time of filing such declaration, provided a petition for sequestration of his estate shall be filed by or against such person within two months from the filing of such declaration.

11. If any person, after the filing of any petition for sequestration of his estate, shall pay money to the petitioning creditor, or give or deliver to such petitioning creditor any satisfaction or security for his debt or any part thereof, whereby such petitioning creditor may receive more for every ten rupees in respect of his debt than the other creditors, such payment, gift, delivery, satisfaction or security shall be an act of insolvency; and if adjudication that such estate be sequestered shall have been made upon such petition, the court may either declare such adjudication to be valid, and direct the same to be proceeded in, or may order it to be annulled, and a petition or new petition for sequestration may be filed, and such petition or new petition may be supported either by proof of such last-mentioned or any other act of insolvency.

Compounding with petitioning creditor an act of insolvency

12. If any plaintiff shall recover judgment in any action for the recovery of any debt or money demand in any court in Sri Lanka against any person residing within the same, and shall be in a situation to sue out execution upon such judgment, and there be nothing due from such plaintiff by way of set-off against such judgment, and the defendant shall not within thirty days after notice in writing personally served upon such defendant requiring immediate payment of such judgment-debt, pay, secure, or compound for the same to the satisfaction of such plaintiff, every such defendant shall be deemed to have committed an act of insolvency on the thirty-first day after service of such notice:

Defendant not paying, securing, or compounding for a judgment debt within thirty days after notice an act of insolvency.

Provided that if such execution shall in the meantime be suspended or restrained by any rule, order, or proceeding of any court having jurisdiction in that behalf, no further proceeding shall be had on such notice, but it shall be lawful nevertheless for such

plaintiff, when he shall again be in a situation to sue out execution on such judgment, to proceed again by notice in manner aforesaid;

Provided also that if the defendant appeals against such judgment no such notice shall be given, or if given no further proceeding shall be had thereon pending such appeal.

Person disobeying order of court for payment of money after service of peremptory order an act of insolvency.

13. If any decree or order shall be pronounced in any cause depending in any court or any order shall be made in any matter of insolvency against any person residing in Sri Lanka, ordering such person to pay any sum of money, and such person shall disobey such decree or order, the same having been personally served upon him, and no appeal against the same shall be pending, the person entitled to receive such sum under such decree or order, or interested in enforcing the payment thereof pursuant thereto, may make an *ex parte* application to the court by which the same shall have been pronounced to fix a peremptory day for the payment of such money, which shall accordingly be fixed by an order for that purpose; and if such debtor, being personally served with such last-mentioned order thirty days before the day therein appointed for payment of such money, shall neglect to pay the same, every such debtor shall be deemed to have committed an act of insolvency on the thirty-first day after the service of such order.

Notice of acts of insolvency to agents of corporate bodies, &c.

14. If any accredited agent of any body corporate or public company shall have had notice of any act of insolvency, such body corporate or company shall be deemed to have had such notice.

No person liable upon an act of insolvency committed more than twelve months before petition.

15. No person shall be liable to be adjudged insolvent by reason of any act of insolvency committed more than twelve months prior to the filing of any petition for sequestration of his estate; and no adjudication of insolvency shall be deemed invalid by reason of any act of insolvency prior to the debt of the petitioning creditor, provided there be a sufficient act of insolvency subsequent to such debt.

PROCEEDINGS BEFORE THE ESTATE OF ANY PERSON IS ADJUDGED INSOLVENT

16. Proceedings to obtain the sequestration of the estate of any person as insolvent shall be by petition to the District Court of the district in which the debtor shall have resided or carried on business for six months next immediately preceding the time of filing such petition, except where otherwise in this Ordinance specially provided (such petition, if presented by a creditor, being in the form B in the Schedule, and the truth thereof verified by the affidavit of the petitioner in the form C in the Schedule; and if presented by a person against himself under section 20, being in the form D in the Schedule, and the truth thereof and of the matters required to be stated in the list annexed to such petition verified by the affidavit of such person in the form C in the Schedule); and every such petition shall be filed of record and prosecuted as directed by this Ordinance; and from and after the filing of such petition the said court shall have full power and authority to take such order and direction with the body of the insolvent as mentioned in this Ordinance, as also with all his property, real and personal, which he shall have in his own right before he became insolvent, as also with all such interest in any such property as such insolvent may lawfully part with, and with all his money, fees, annuities, goods, wares, merchandise, and debts, wheresoever they may be found or known, and to make or order sale thereof in manner herein mentioned, or otherwise order the same for satisfaction and payment of the creditors of such insolvent.

Proceedings to originate by petition

17. Provided that the Court of Appeal shall have power, whenever such court may deem it expedient, to order any petition against or by any person for the sequestration of his estate, to be prosecuted in any District Court with or without reference to the district in which such person resided or carried on business, and whether or not such person has resided or carried on his business for six months preceding the filing of such petition, and whether or not such person has carried on his business for that time in any particular district; or to consolidate the proceedings or any part thereof under two or more

Court of Appeal may direct petition to be prosecuted in any District Court., &c.

petitions for the sequestration of such estate, or to transfer any petition for such sequestration and the proceedings thereunder, and the prosecution or the further prosecution thereof, from any one District Court to any other District Court, and the court to which any such transfer shall be made shall have and exercise full jurisdiction therein; and any such order by the Court of Appeal may be in such of the forms E, F, or G in the Schedule as may be adapted to the case, or to the like effect.

property, and an inventory of the same, and of the debts owing to him, with their dates, as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts:

Petitioning creditor's debt:

18. The amount of the debt of any creditor petitioning for sequestration of the estate of any person as insolvent shall be as follows: that is to say, the single debt of such creditor, or of two or more persons being partners, so petitioning shall amount to five hundred rupees or upwards; and the debt of two creditors so petitioning shall amount to seven hundred rupees or upwards; and the debt of three or more creditors so petitioning shall amount to one thousand rupees or upwards; and every person who has given credit to any person upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such person committed an act of insolvency, may so petition or join in petitioning, whether he shall have had any security in writing for such sum or not.

though payable at a future time, and security given.

Provided that unless such person shall forthwith after the filing of his petition, and before adjudication of insolvency thereunder, make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least two rupees and fifty cents for every ten rupees, clear of all charges (to be estimated by the court) of prosecuting the petition, such petition shall be dismissed, and no further petition shall be filed by such person in the same district without the leave of the court first obtained for that purpose; and the adjudication on any further petition shall be subject to the like condition as aforesaid as to the available estate of the petitioner;

Petition by public officer of certain co-partnership.

19. A petition for sequestration as insolvent of the estate of any person indebted in the amount aforesaid to any co-partnership, duly authorized to sue and be sued in the name of a public officer of such co-partnership, may be filed by such public officer as the nominal petitioner for and on behalf of such co-partnership.

Provided, however, that it shall be lawful for any person, whatever the amount of his available estate, who shall be in actual custody within the walls of any prison in Sri Lanka, upon any writ of execution against his person, or other like process, for or by reason of any debt, damages, or costs, at any time after twenty-one days from the commencement of the actual custody of such prisoner, to file a declaration of insolvency, and to petition for the sequestration as an insolvent of his own estate.

So also may an insolvent prisoner.

Person may petition against himself.

20. Any person may petition for the sequestration as insolvent of his own estate ; and there shall be annexed to such petition a list containing a full and true account of the petitioner's debts, and the claims against him, with the names of his creditors and claimants and the dates of contracting the debts and claims severally, as near as such dates can be stated, the nature of the debts and claims and securities (if any) given for the same, and whether the same are disputed; and also a true account of the nature and amount of the petitioner's

21. If the petitioning creditor in any petition for sequestration of his debtor's estate as insolvent shall not proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as shall be allowed by the court, the court may at any time within fourteen days then next following, upon the application of any other creditor to the amount required to constitute a petitioning creditor, proceed to adjudicate on such petition, upon the proof of the debt of such second-mentioned creditor and of the other requisites to support such petition (except the debt of the petitioning creditor); but if neither the petitioner nor any other creditor shall, within such fourteen days or within such extended time as may be granted by

If adjudication be not obtained within three days after petition, any other creditor may proceed on it.

the court for that purpose, apply to the court to adjudicate upon such petition, no further proceeding shall be taken thereon.

to such person as the court shall think fit, whereby such Fiscal or other person shall have authority to arrest the person against whom such petition shall have been filed, and also to seize his books, papers, moneys, securities for moneys, goods, and effects, wheresoever he or they may be found, and him and them safely keep until the expiration of the time allowed for adjudication on such petition, or until such person shall be adjudged insolvent under such petition, and be thereon dealt with according to this Ordinance:

Petitions may be presented against one or more partners in a firm ; and petitions against two or more may be dismissed as to one without affecting the others.

22. Any creditor whose debt is sufficient to entitle him to petition for the sequestration as insolvent of the estate of all the partners of any firm may petition for such sequestration against one or more partners of such firm, and every such petition shall be valid, although it does not include all the partners of the firm; and in every petition for sequestration against two or more persons the court may dismiss the same as to one or more of such persons, and the validity of such petition shall not be thereby affected as to any person as to whom such petition is not ordered to be dismissed, nor shall any such person's certificate be thereby affected.

Provided that any person arrested upon any such warrant or any person whose books, papers, moneys, securities for moneys, goods, or effects have been seized under any such warrant, may apply at any time after such arrest or seizure to the court for an order or rule on the petitioning creditor to show cause why the person arrested should not be discharged out of custody, or why his books, papers, moneys, securities for moneys, goods, and effects should not be delivered up to him; and it shall be lawful for such court to make absolute or discharge such order or rule.

Person so arrested may apply to the court for his discharge.

If one member of a firm be insolvent, a petition against the others shall be filed in the same court.

23. After a petition for sequestration filed against or by one or more member or members of a firm, any petition for sequestration against or by any other member of such firm shall be filed and prosecuted in the court in which the first petition was prosecuted; and immediately after the adjudication under such other petition all the estate, real and personal, of any such insolvent shall vest in the assignee, if any, under the first petition; and thereafter all separate proceedings under such other petition shall be stayed and such petition shall without affecting the validity of the first petition, be annexed to and form part of the same :

25. The court, before adjudication, may summon before it any person whom such court shall believe capable of giving any information . concerning any act of insolvency committed by the person against whom any petition for the sequestration of his estate as insolvent has been filed, and may require any person so summoned to produce any books, papers, deeds, writings, and other documents in his custody, possession, or power which may appear to the court to be necessary to establish such act of insolvency ; and it shall be lawful for the court to examine any such person upon oath by word of mouth, or interrogatories •in writing, concerning such act of insolvency ; and such court, before or at the time of adjudication, may examine the person by or against whom any such petition has been presented, or any other person, as to the probable value of the property of such first-mentioned person available for the payment of his debts.

Court, before adjudication, may summon witnesses to prove act of insolvency

Provided that the Court of Appeal may direct that such other petition shall be filed and prosecuted in any other District Court, or be proceeded in, either separately or in conjunction with the first petition.

After petition filed, if the insolvent be about to quit Sri Lanka or to remove or conceal his goods, he may be arrested and his goods seized.

24. Whenever -any petition for sequestration as insolvent of the estate of any person shall have been filed against any person, and it shall be proved to the satisfaction of the court in which such petition has been filed that there is probable cause for believing that such person is about to quit Sri Lanka, or to remove or conceal any of his goods with intent to defraud his creditors, unless he be forthwith apprehended, it shall be lawful for the court to issue a warrant, directed to the Fiscal, or

ADJUDICATION OF THE ESTATE OF ANY PERSON AS INSOLVENT, AND THE PROCEEDINGS FOR SECURING THE PROPERTY AND SURRENDER OF THE INSOLVENT

Adjudication, and upon what proof.

26. The District Court, under a petition filed by a creditor shall, upon proof of the petitioning creditor's debt and of the act of insolvency of the person against whom such petition is filed, adjudge such person insolvent; or if in case of the failure of the petitioning creditor to proceed and obtain adjudication within three days after his petition shall have been filed, or within such extended time as may be allowed by the court, another creditor shall apply for adjudication upon such petition, then upon such application, and proof of such creditor's debt, and of the act of insolvency of the person against whom such petition is filed, the court shall adjudge such person insolvent; and under a petition filed by any person against himself the court, upon the application of such person, and upon proof of the filing a declaration of insolvency, and of the sufficiency of his available estate to the extent required by this Ordinance, or upon proof of the filing of such declaration of insolvency, and that such person has been in actual custody within the walls of a prison for debt for more than twenty-one days, shall adjudge such person insolvent.

Attachment upon the estate and how to be made.

27. Forthwith, after any person shall be adjudged insolvent, the District Court shall issue to the Fiscal an order (in the form H in the Schedule) placing the estate of the insolvent under sequestration in his hands, and such Fiscal shall enter and lay an attachment on the estate, under inventory thereof; and when the same shall be sequestered upon the petition of any creditor the said Fiscal shall be accompanied by the petitioning creditor, or someone authorized by him, on behalf of himself and the other creditors of the said estate; and when the said estate shall be sequestered upon the petition of any insolvent against himself, it shall be lawful for any of the creditors, or for the agent of any of the creditors, of the insolvent to accompany the Fiscal and to be present with him while making out the inventory aforesaid.

28. When any personal property belonging to any insolvent is attached as aforesaid in virtue of any order for the sequestration thereof, the Fiscal making such attachment shall leave with the person in whose possession any such property is attached a copy of the said inventory, having subjoined thereto a notice in the Sinhala language, and also, if he does not understand Sinhala, in the language spoken by such person, that the property therein specified has been attached by the said Fiscal, by virtue of an order of the court for the sequestration thereof; and any person who knowing the same to have been so attached, shall dispose of, remove, conceal, or receive the same, or any part thereof, with intent to defeat the said attachment, shall be liable on conviction of such offence to be transported for any period not exceeding seven years, or to be imprisoned, with or without hard labour, for any period not exceeding five years ;

Attachment of personal property how to be made and as to penalty for defeating the same.

Provided that it shall be lawful for such Fiscal to secure on the premises, by sealing up in any room or repository, any articles which in the discharge of his duty it shall seem to him expedient so to secure, causing no unnecessary hindrance or inconvenience to any party by so doing, or to leave some person on the premises in charge thereof; and the said Fiscal shall forthwith report his execution of the said attachment to the said court, and the court may give such directions for the safe custody of the said property as shall seem fit.

29. If, after adjudication of insolvency, the debt of the petitioning creditor be found by the court to be insufficient to support such adjudication, it shall be lawful for the court, upon the application of any other creditor having proved any debt sufficient to support an adjudication, to order the petition for sequestration to be proceeded in, and it shall by such order be deemed valid, which order may be in the form I in the Schedule, or to the like effect.

if petitioning creditor's debt insufficient court may proceed upon the application of any other creditor.

30. Before notice of any adjudication of insolvency shall be given in the Gazette, and at or before the time of putting in execution any order of sequestration which shall have been granted upon such adjudication, a duplicate of such adjudication shall be served on the person adjudged insolvent, personally or by leaving the same at the usual or last known place of abode or place

Insolvent to have notice of adjudication and to be allowed a certain time to show cause against it before advertisement

of business of such person; and such person shall be allowed seven days, or such extended time not exceeding fourteen days in the whole as the court shall think fit, from the service of such duplicate, to show cause to the court against the validity of such adjudication; and if such person shall within such time show to the satisfaction of the court that the petitioning creditor's debt, and the act of insolvency upon which such adjudication has been grounded, or either of such matters, are insufficient to support such adjudication, and upon such showing no other creditor's debt and act of insolvency sufficient to support such adjudication or such of the said last-mentioned matters as shall be requisite to support such adjudication in lieu of the petitioning creditor's debt and act of insolvency, or either of such matters which shall be deemed insufficient in that behalf, as the case may be, shall be proved to the satisfaction of the court, the court shall thereupon order (in the form K in the Schedule or to the like effect) such adjudication to be annulled, and the same shall by such order be annulled accordingly ; but if at the expiration of the said time no cause shall have been shown to the satisfaction of the court for the annulling of such adjudication, the court shall forthwith, after the expiration of such time, cause notice of such adjudication to be given in the said Gazette, and shall thereby appoint two public sittings of the court for the insolvent to surrender and conform, the last of which sittings shall be on a day not less than thirty days and not exceeding sixty days from such advertisement in the Gazette, and shall be the day limited for such surrender; and copies and translations of such advertisement shall also be affixed on the wall of the District Court and of the nearest kachcheri:

Provided that the court shall have power from time to time to enlarge the time for the insolvent surrendering himself for such time as the court shall think fit, so as every such order be made six days at least before the day on which such insolvent was to surrender himself: and also from time to time to adjourn either of the said sittings if the court shall deem it necessary to do so;

Provided also that if any person so adjudged insolvent shall, before the expiration of the time allowed for showing cause, surrender himself and give his consent, testified in writing under his hand, to such adjudication being advertised, the court after such consent so given shall forthwith cause the notice of adjudication to be advertised, and appoint the sittings for the insolvent to surrender and conform.

31. Forthwith after the insertion of the notice of adjudication in the Gazette, or, if the insolvent before the expiration of the time allowed for showing cause against the adjudication surrender himself and give consent to such insertion, forthwith after such surrender, the insolvent shall (if thereto required by the court) deliver up to the court upon oath all books of account, papers, and writings relating to his estate in his custody or power, and discover such as are in the custody or power of any other person ; and every insolvent not in prison or custody shall at all times after such surrender attend the assignees, upon every reasonable notice in writing for that purpose given by them to him or left at his usual or last known place of abode, and shall assist such assignees in making out the accounts of his estate; and such insolvent after he shall have surrendered may, at all seasonable times before the expiration of such time as shall be allowed to him to finish his examination, inspect his books, papers, and writings in the presence of his assignees, or any person appointed by them, and bring with him each time any two persons to assist him ; and every such insolvent after he shall have obtained his certificate shall, upon demand in writing given to him or left at his usual or last known place of abode, attend the assignees to settle any accounts between his estate and any debtor to or creditor thereof, or attend any court to give evidence touching the same, or do any act necessary for getting in or protecting the said estate, for which *attendance he shall be paid by the assignees out of his estate such sum not exceeding five rupees per day, as they shall deem reasonable.

32. In all cases where it shall be made to appear to the satisfaction of the District Court that there is reason to suspect and

Adjudication may, with insolvent's consent, be advertised before the time for showing cause.

Insolvent to deliver up his books of account to the court upon oath;

to attend assignees;

to be at liberty to inspect books, &c.:

after allowance of certificate to attend assignees in settling accounts.

Allowance for attendance.

Search warrants in what cases

believe that any property of any insolvent is concealed in any house or other place not belonging to such insolvent, the court may grant a search warrant to the Fiscal or other person appointed by the court, and it shall be lawful for such Fiscal or other person to execute such warrant according to the tenor thereof; and such Fiscal or other person shall be entitled to the same protection as is allowed by law in execution of a search warrant for property reputed to be stolen, and every such search warrant shall be in the form L in the Schedule, or to the like effect.

No action against persons for acting under warrant of the court without demand of copy of warrant.

33. No action shall be brought against any Fiscal or other person appointed by the court for anything done in obedience to any warrant of the court, unless demand of the perusal and copy of such warrant hath been made or left at the usual place of abode of such Fiscal or other person by the party intending to bring such action, or by his registered attorney or agent, in writing, signed by the party demanding the same, and unless the same hath been refused or neglected for six days after such demand; and if after such demand, and compliance therewith, any action be brought against such Fiscal or person so appointed, without making the petitioning creditor defendant, if living, the court at the trial of such action, on the production and proof of such warrant, shall give judgment for the defendant, notwithstanding any defect of jurisdiction in the court by which such warrant shall have been granted; and if such action be brought against the petitioning creditor and the Fiscal or person so appointed, the court shall, on proof of such warrant, give judgment for such Fiscal or person so appointed, notwithstanding any such defect of jurisdiction; and if the judgment shall be given against the petitioning creditor, the plaintiff shall recover his costs against him, to be taxed so as to include such costs as the plaintiff is liable to pay to the Fiscal or person so appointed as aforesaid.

Proof in such actions that defendant is petitioning creditor sufficient to render him liable.

34. In any such action brought against the petitioning creditor, either alone or jointly with any Fiscal or other person so appointed by the court, for anything done in obedience to the warrant of the court, proof by the plaintiff in such action that the defendant or defendants or any of them is

or are petitioning creditor or creditors shall be sufficient for the purpose of making such defendant or defendants liable in the same manner and to the same extent as if the act complained of in such action had been done or committed by such defendant or defendants.

35. It shall be lawful for any Fiscal, acting under warrant of the court, to break open any house, chamber, shop, warehouse, door, trunk, or chest of any insolvent where such insolvent or any of his property shall be reputed to be, and seize upon the body or property of such insolvent; and if the insolvent be in prison or in custody, it shall be lawful for the Fiscal to seize any property of the insolvent (his necessary wearing apparel only excepted) in the custody or possession of such insolvent, or of any other person, in any prison or place where such insolvent is in custody.

Fiscal may break open the insolvents doors, &c., and seize upon his body or property

36. If the insolvent be not in prison or custody at the date of the adjudication, he shall be free from arrest or imprisonment by any creditor in coming to surrender, and after such surrender during the time by this Ordinance limited for such surrender, and for such further time as shall be allowed him for finishing his examination, and for such time after finishing his examination until his certificate be allowed, as the court shall from time to time by endorsement upon the summons of such insolvent, or by writing under the hand of the Judge of such court, think fit to appoint; and whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment, or sentence, the court may by warrant directed to the person in whose custody he is confined cause him to be brought before it at any sitting, either public or private, and if he be desirous to surrender, he shall be so brought up and the expense thereof shall be paid out of his estate, and such person shall be indemnified by the warrant of the court for bringing up such insolvent; and where any person who has been adjudged insolvent, and has surrendered and obtained his protection from arrest, is in prison or in custody for debt at the time of his obtaining such protection, the court may, except in the cases next hereinafter mentioned, order his immediate release, either absolutely or upon such conditions as it shall think fit:

Insolvent not in custody to be free from arrest in coming to surrender, &c.

If in custody, he may be brought up to be examined or to surrender, &c.; and if for debt, the court may, except in certain cases, order his release

Provided that the court shall not order such release where it shall appear by any judgment, order, commitment, or sentence under which the insolvent is in prison or in custody, or by the record or entry of any such judgment, order, commitment, or sentence, and the pleadings or proceedings previously thereto, that he is in prison or in custody for any debt contracted by fraud or breach of trust, or by reason of any prosecution against him whereby he had been convicted of any offence, or for any debt contracted by reason of any judgment in any proceeding for breach of the revenue laws, or in any action for breach of promise of marriage, seduction, criminal conversation, libel, slander, assault, battery, malicious arrest, malicious trespass, or maliciously filing or prosecuting a petition for sequestration of the estate of any person as insolvent, unless it shall appear to the satisfaction of the court that the insolvent shall at the time of this Ordinance coming into operation, or at any time thereafter, have been in prison or custody under or by reason of any such judgment, order, commitment, or sentence as aforesaid for a period of or exceeding one year;

Court may order release of insolvent if in custody for debt contracted by fraud, &c., when detained for more than one year.

Provided also that such release shall in no wise affect any rights of the creditor at whose suit the insolvent may be in prison or in custody against the insolvent, except the right of detaining him in prison or in custody whilst protected from imprisonment by order of the court.

If arrested, to be discharged on producing protection.

37. If any insolvent shall be arrested for debt in coming to surrender, or shall after his surrender and while protected by order of the court be so arrested, he shall, on producing such protection to the officer who shall arrest him, and giving such officer a copy thereof, be immediately discharged; and if any officer shall detain any such insolvent after he shall have shown such protection to him, except for so long as shall be necessary for obtaining a copy of the same, such officer shall forfeit to such insolvent, for his own use, the sum of fifty rupees for every day he shall detain such insolvent, to be recovered by action in any competent court in the name of such insolvent, with costs of suit.

38. The petitioning creditor shall, at his own cost, file and prosecute his petition until the choice of assignees by the creditors; and the court shall at or after the sitting for such choice make order for the payment thereof out of the estate of the insolvent.

Petitioning creditor to proceed at his own cost until choice of assignees.

39. No petition for sequestration of the estate of any person as insolvent shall be dismissed, nor any adjudication thereon reversed, by reason only that the petition, or adjudication, or act of insolvency has been concerted or agreed upon between the insolvent, his registered attorney or agent, or any of them, and any creditor or other person.

No objection to petition for sequestration, that the act of insolvency was concerted.

40. If any person shall die after he has been adjudged insolvent, the court may proceed in the matter of such insolvency as if such insolvent were living.

Court may proceed notwithstanding death of insolvent.

41. The court may summon any insolvent before it, whether such insolvent shall have obtained his certificate or not; and in case he shall not come at the time appointed by the court (having no lawful impediment made known to and allowed by the court at such time), it shall be lawful for the court, by warrant, to authorize and direct the Fiscal, or any person the court shall think fit, to apprehend and arrest such insolvent and bring him before the court; and upon the appearance of such insolvent, or if such insolvent be present at any sitting of the court, it shall be lawful for the court to examine or to permit the examination by the creditors of such insolvent after he shall have made and signed a declaration in the form M in the Schedule, either by word of mouth or on interrogatories in writing, touching all matters relating to his trade, dealings, or estate, or which may tend to disclose any secret grant, conveyance, or concealment of his lands, goods, money, or debts, and to reduce his answers into writing, which examination, so reduced into writing, the said insolvent shall sign.

Court may summon and examine insolvent.

42. It shall be lawful for the court to summon before it the wife of any insolvent, and to examine her, or to permit her examination by the creditors of such insolvent, after she shall have made and signed a declaration in the form M in the

Court may summon and examine the insolvent's wife.

Schedule, either by word of mouth or interrogatories in writing, for the finding out and discovery of the property of such insolvent concealed, kept, or disposed of by such wife in her own person or by her own act, or by any other person, and she shall incur such danger or penalty for not coming before the court, or for refusing to make and sign such declaration and to be examined, or to sign her examination, or for not fully answering to the satisfaction of the court, as is hereinafter provided.

direct the Fiscal, or other person therein named for that purpose, to apprehend and arrest such person and bring him before the court for examination.

45. Where it shall be shown by affidavit to the satisfaction of the court that any person to whom any such summons is directed as aforesaid is keeping out of the way and cannot be personally served therewith, and that due pains have been taken to effect such personal service, it shall be lawful for the court to order by endorsement upon the summons that the delivery of a copy of such summons to the wife or servant, or some adult inmate of the house or family of the person at his usual or last known place of abode or business, and explaining the purport thereof to such wife, servant, or inmate, shall be equivalent to personal service; and in every such case the service of such summons in pursuance of such order shall be and be deemed and taken to be of the same force and effect to all intents and purposes as if the party to whom such summons was directed had been personally served therewith.

Service of summons where person keeps out of the way.

If insolvent keep out of the way, or be about to quit Sri Lanka, &c., warrant.

43. If in any case it shall be proved to the satisfaction of the court that any insolvent is keeping out of the way and cannot be personally served with a summons, and that due pains have been taken to effect such personal service, or that there is probable cause for believing that he is about to quit Sri Lanka, or to remove or conceal any of his goods or effects, unless he be forthwith apprehended, it shall be lawful for such court, by warrant, to authorize and direct the Fiscal, or any person it shall think fit, to apprehend and arrest such insolvent, and bring him before the court to be examined in like manner as if he appeared upon a summons.

46. Upon the appearance of any person summoned or brought before the court upon any warrant as aforesaid, or if any person be present at any sitting of the court, it shall be lawful for the court to examine or to permit the examination by the creditors of every such person upon oath, either by word of mouth or by interrogatories in writing, concerning the person, trade, dealings, or estate of any insolvent, or concerning any act of insolvency by any insolvent committed, and to reduce into writing the answers of every such person; and such answers so reduced into writing such person examined is hereby required to sign.

Power to examine persons summoned or present at any sitting.

Court may summon person suspected of having insolvent's property, &c.

44. After any person has been adjudged insolvent it shall be lawful for the District Court to summon before it any person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, or any person the court may believe capable of giving information concerning the person, trade, dealings, or estate of the insolvent, or concerning any act of insolvency committed by him, or any information material to the full disclosure of his dealings ; and the court may require such person to produce any books, papers, deeds, writings, or other documents in his custody or power which may appear to the court necessary to the verification of the deposition of such person, or to the full disclosure of any of the matters which the court is authorized to inquire into; and if such person so summoned as aforesaid shall not come before the court at the time appointed, having no lawful impediment (made known to the court at the time of its sitting, and allowed by it), it shall be lawful for the court by warrant to authorize and

47. If any such person examined as last aforesaid shall, in and by his examination signed as aforesaid, and also in and by a separate writing in the form N in the Schedule, admit that he is indebted to the insolvent in any sum of money upon the balance of accounts, it shall be lawful for the court, if it think fit, to order (in the form O in the Schedule, or to the like effect) that such person shall forthwith, or at such time and in such manner as to the court may seem expedient, pay the amount so

Court may order payment of debts admitted to be due to the estate:

and if they fail to attend, warrant.

admitted, in full discharge thereof, to the assignees, together with the costs of and incident to the summons of such person, if the court think fit to award costs, or the court may, if it think fit, in the said form O, order the assignees to pay the costs of the person summoned out of the estate of the insolvent; and every such order shall have the effect of a judgment in the said court, and may be enforced accordingly:

such order to have effect of judgment

Provided always that no such order shall be made unless such party has been informed by the Judge of the effect of such admission before the same is signed as aforesaid;

Provided also, that if part only of the sum actually due be so admitted, or if the court make an order for part only of the sum admitted, the residue may be recoverable in the same manner in all respects as if no such admission or order had been made.

Court may order letters addressed to insolvent to be redirected or delivered to assignees, &c.

48. The District Court may order that for 3 period of three months from the date of any such Order all Post letters directed or addressed to any insolvent at the place of which he shall be described in the petition for sequestration of his estate as insolvent, shall be redirected, readdressed, sent, or delivered by the Postmaster-General, or the officers acting under him, to the assignees named in such order; and upon notice by transmission of a duplicate of any such order to the Postmaster-General, or the officers acting under him, by the assignees or other person named in such order, of the making of such order, it shall be lawful for the Postmaster-General, or such officers as aforesaid, to readdress, redirect, send, or deliver all such post letters to the assignees named in such order accordingly; and the court may, upon any application to be made for that purpose, renew any such order for a like or for any other less period as often as may be necessary.

POWER OF THE DISTRICT COURT OVER CERTAIN DESCRIPTIONS OF PROPERTY

Goods in the possession, order, or disposition of the insolvent to be deemed his property

49. If any insolvent, at the time he commits the act of insolvency, shall, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or effects whereof he was reputed owner, or whereof he had taken

upon him the sale or disposition as owner, the court shall have power to order the same to be sold or disposed of for the benefit of the creditors of the insolvent:

Provided that nothing herein contained shall invalidate or affect any transfer or assignment of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of the Merchant Shipping Act.

Assignments of vessels under the Merchant Shipping Act.

50. But if there shall be found among the insolvent's property at the time of its seizure any wares, goods, or merchandise consigned to him for the special purpose of being sold by him on commission, or intrusted in his hands for any specific purpose, and which evidently are the property of the consignor or person so intrusting, notice thereof shall be transmitted to the owners as soon as possible, in order that they may take the necessary measures to secure their property, and the same shall be carefully preserved, and shall be delivered over to the lawful owners.

Consigned goods, &c., to be given up to the owner.

51. If any person adjudged insolvent under this Ordinance shall (except upon the marriage of any of his children, or for some valuable consideration) have conveyed, assigned, or transferred to any of his children, or to any other person, any real or personal property whatsoever, or have delivered or made over to any such person any bills, bonds, notes, or other securities, or have transferred his debts to any other person or into any other person's name, such first-mentioned person being at the time of making any such conveyance, assignment, transfer, or delivery insolvent, the court shall have power to order any such property to be sold and disposed of for the benefit of the creditors under the insolvency; and every such sale shall be valid against the insolvent and such children and persons, and against all persons claiming under him.

Conveyances, &c., by insolvent without valuable consideration, void.

52. No seizure or detention of the goods of any insolvent for rent made after an act of insolvency, and whether before or after the filing of the petition for sequestration of his estate, shall be available for more than one year's rent accrued prior to the day of the filing of such petition, but the landlord or person to whom the rent shall be due

Seizure of goods for rent not to be available for more than one year's rent due; the landlord to prove for the residue.

shall be allowed to come in as creditor for the overplus of the rent due, and for which the goods seized shall not be available.

TRANSACTIONS WITH THE INSOLVENT, AND EXECUTIONS AGAINST HIS PROPERTY UP TO THE TIME OF THE FILING OF THE PETITION FOR SEQUESTRATION OF HIS ESTATE AS INSOLVENT, OR WITHIN A LIMITED TIME PREVIOUSLY THERETO

Where insolvent is a trustee, the court may order conveyance or assignment to another trustee.

53. If any insolvent shall as trustee be seized, possessed of, or entitled to, either alone or jointly, any real or personal estate, or any interest secured upon or arising out of the same, or shall have standing in his name as trustee, either alone or jointly, any funds or annuities, or any of the stock of any public company in Sri Lanka, it shall be lawful for the court, on the petition of the person entitled in possession to the receipt of the rents, issues, and profits, dividends, interest, or produce thereof, on due notice given to all other persons (if any) interested therein, to order the assignees, and all persons whose act or consent thereto is necessary, to convey, assign, or transfer the said estate, interest, funds, or annuities to such person as the said court shall think fit, upon the same trusts as the said estate, interest, funds, or annuities were subject to before the insolvency, or such of them as shall be then subsisting and capable of taking effect, and also to receive and pay over the rents, issues, and profits, dividends, interest, or produce thereof as the said court shall direct.

56. All payments really and bona fide made by any insolvent, or by any person on his behalf, before the filing of a petition for sequestration of his estate as insolvent to any creditor of such insolvent, and all payments really and bona fide made to any insolvent before the filing of such petition, and all conveyances by any insolvent bona fide made and executed before the filing of such petition, and all contracts, dealings, and transactions by and with any insolvent really and bona fide made and entered into before the filing of such petition, and all executions and attachments against the lands of any insolvent bona fide executed by seizure, and all executions and attachments against the goods and effects of any insolvent bona fide executed and levied by seizure and sale before the date of the filing of such petition, shall be deemed to be valid notwithstanding any prior act of insolvency by such insolvent committed, provided the person so dealing with or paying to or being paid by such insolvent, or at whose suit or on whose account such execution or attachment shall have issued, had not at the time of such payment, conveyance, contract, dealing, or transaction, or at the time of such executing or levying such execution or attachment, or at the time of making any sale thereunder, notice of any prior act of insolvency by him committed:

Payment by insolvent,

conveyances by him;

contracts and dealings with him,

and executions

in what cases valid, if no notice of act of insolvency;

Title to property sold not to be impeached unless insolvency disputed within a certain time.

54. No title to any real or personal estate sold under any insolvency shall be impeached by the insolvent, or any person claiming under him, in respect of any defect in the petition for sequestration or in any of the proceedings under the same, unless the insolvent shall, within the time allowed by this Ordinance, have commenced proceedings to dispute, dismiss, or annul the petition or adjudication thereunder, and duly prosecuted the same.

The court, after adjudication, may order any agent of the insolvent to deliver over all moneys, &c.

55. After the adjudication of insolvency in any case shall have been advertised in the Gazette, it shall be lawful for the court to order any treasurer or other officer, or any banker, attorney, registered attorney or other agent of the insolvent, to pay and deliver over to the assignees, to the credit of the estate of such insolvent, all moneys or securities for moneys in his custody, possession, or power as such officer or agent, and which he is not by law entitled to retain against the insolvent or his assignees,

Provided always that nothing herein contained shall be deemed or taken to give validity to any payment, or to any delivery or transfer of any goods or effects made by any insolvent being a fraudulent preference of any creditor of such insolvent, or to any conveyance or mortgage made or given by any insolvent by way of fraudulent preference of any creditor of such insolvent, or to any execution founded on a judgment on a power of attorney to confess judgment, or consent to a judgment given by any insolvent by way of fraudulent preference.

but not to extend to Fraudulent preferences, &c.

Bona fide purchases not to be impeached by notice of act of insolvency, unless petition be filed within twelve months after the act of insolvency.

57. No purchase from any insolvent bona fide and for valuable consideration where the purchaser had notice at the time of such purchase of an act of insolvency by such insolvent committed, shall be impeached by reason thereof, unless a petition for sequestration of the estate of such insolvent shall have been filed within twelve months after such act of insolvency.

Fraudulent preferences according to the law of England to be deemed such in like cases within Sri Lanka.

58. Every transaction, dealing, transfer, delivery, alienation, mortgage, pledge, or payment by any insolvent to or with any creditor of such insolvent, or to or with any other person, which by the law of England at the corresponding period would be and be deemed to be a fraudulent preference of one creditor before other creditors in any proceeding in bankruptcy, or in any suit or action, shall, in the like case arising within Sri Lanka be and be deemed to be a fraudulent preference according to the true intent and meaning of this Ordinance.

Certain powers of attorney to confess judgment and consents to judgments, given within two months of filing petition to be null and void.

59. Every power of attorney to confess judgment* in any personal action given by any insolvent after the commencement of this Ordinance, and within two months of the filing of a petition for sequestration of his estate by or against such insolvent, and being for or in respect of (wholly or in part) an antecedent debt or money demand, and every consent to a judgment given by any insolvent at any time after the commencement of this Ordinance, and within two months of the filing of any such petition, in any action commenced by collusion with the insolvent, and not adversely or purporting to have been given in an action, but having been in fact given before the commencement of any action against the insolvent, such insolvent being unable to meet his engagements at the time of giving such power of attorney* or consent (as the case may be), shall be deemed and taken to be null and void, whether the same shall have been given by such insolvent in contemplation of the sequestration of his estate as insolvent or not.

STAMPS

60. No deed, conveyance, assignment, admission, or other assurance of or to or relating solely to any lands, or to any mortgage, charge, or other incumbrance upon, or any estate, right, or interest of and in any lands, or personal estate, being the estate of or belonging to any insolvent, or part or parcel thereof, and which after the execution of such deed, conveyance, assignment, or assurance respectively shall either be or remain the estate and property of such insolvent or of the assignees appointed or chosen under any insolvency, and no power of attorney, order, certificate of conformity, affidavit, or other instrument or writing whatsoever relating solely to the estate or effects of any insolvent, or to any part thereof, or to any proceedings under any insolvency, and no affidavit, bond, or other proceeding under this Ordinance relating solely to insolvency matters, shall be liable to any stamp duty, save and except such stamp duty as is provided in Part V of Schedule A of the Stamp Ordinance.

Deeds and other instruments relating to insolvency not liable to stamp duty.

61. The provisions contained in the Ordinance for the time being in force relating to stamps shall (so far as the same are applicable and consistent with the provisions of this Ordinance), in all cases not hereby expressly provided for, be of full force and effect with respect to the stamps to be provided under and by virtue of this Ordinance, and shall be applied and put in execution for collecting and securing the sums of money denoted thereby, and for preventing, detecting, and punishing all frauds, forgeries, and other offences relating thereto, as fully and effectually to all intents and purposes as if such provisions had been herein repeated and specially enacted with reference to the said last-mentioned stamps and sums of money respectively.

Provisions of Stamp Ordinance to extend to stamps under this Ordinance.

APPOINTMENT BY THE COURT OF PROVISIONAL ASSIGNEES

62. It shall be lawful for the District Court, on cause shown by any person interested in the due administration of the insolvent estate at any time after the adjudication of insolvency, by order of

As to appointment by court of provisional assignee.

*Sections 31 and 32 of the Civil Procedure Code relating to warrants and powers of attorney to confess judgment are repealed by Law No. 20 of 1977.

court to appoint one or more fit person or persons to be assignee or assignees of any insolvent estate provisionally and until the creditors of the said estate shall have made choice of assignees.

rejection or removal a new choice and appointment of another assignee shall be made in like manner.

Removal of provisional assignee.

63. Provisional assignees may be removed at the meeting of creditors for the choice of assignees if the said creditors shall think fit, or may then be chosen as assignees, but shall and may, until so removed, act in the collection, administration, and distribution of the said estate in all respects the same as assignees elected by the creditors are by this Ordinance authorized or required to do.

67. If one or more of the partners of a firm be adjudged insolvent, any creditor to whom the insolvent is indebted jointly with the other partners of the firm, or any of them, shall be entitled to prove his debt for the purpose only of voting in the choice of assignees and of being heard against the allowance of the insolvent's certificate, or of either of such purposes; but such creditors shall not receive any dividend out of the separate estate of the insolvent until all the separate creditors shall have received the full amount of their respective debts.

Joint creditor entitled to prove under separate estate for the purpose of voting in the choice of assignees.

Provisional assignee not to sell property without authority of court.

64. No such provisional assignees shall proceed to make sale of any part of the said estate without the authority for that purpose of the said court first had and obtained.

68. In no case shall it be competent for the creditors to elect as assignee the insolvent himself, nor any person related to the insolvent by consanguinity or affinity within the fourth degree, nor any minor, nor any attorney-at-law, nor any person not resident within Sri Lanka, nor any person having an interest opposed to the general interest of the creditors in the insolvent estate, nor any person declared to be incapable of being elected by virtue of the provisions in the next succeeding section contained.

Who incompetent to be appointed assignee.

Effect of appointment of provisional assignee.

65. Every order of court appointing provisional assignees shall, so soon as made, have the effect in law to vest in such provisional assignees for the uses and purposes of the sequestration, and until their removal, all the present and future estate of the insolvent, real and personal, as fully and completely to all intents and purposes as the said estate is by virtue of sections 70 and 71 of this Ordinance vested in the assignees chosen by the creditors.

CHOICE OF ASSIGNEES, AND THEIR RIGHTS AND DUTIES

Assignees when and how chosen.

66. At the first public sitting appointed by the court under any insolvency, or at any adjournment thereof, assignees of the insolvent's estate and effects shall and may be chosen and appointed; and all creditors who have proved debts to the amount of one hundred rupees and upwards shall be entitled to vote in such choice; and also any person authorized by letter of attorney from any such creditor, upon proof of the execution thereof, either by affidavit or by oath before the court viva voce; and the choice and appointment shall be made by the major part in value of the creditor so entitled to vote:

69. If any person elected as assignee shall be proved to the satisfaction of the District Court to have, either directly or indirectly, given or promised to give to any creditor of the insolvent any species of valuable consideration whatsoever, in order to obtain the vote of such creditor at the choice of assignees, or to have agreed to secure and make good to any creditor some certain sum or dividend in discharge or diminution of his debt, upon condition or in order that such creditor should give his vote to such assignee, or to have offered or agreed, in case any creditor of the insolvent should consent to vote for such assignee, to abstain from opening up or investigating some previous transactions between such creditor and the insolvent which were, or were supposed to be, of questionable validity, or to have contrived or been privy to any plan or arrangement by which debts or securities really belonging to some one or more persons have been divided amongst a greater number of persons for the purpose

Acts of assignee entitling the court to set election aside and declare offender disqualified.

Court may reject or remove any person chosen as unfit

Provided that the court shall have power to reject any person so chosen who shall appear to such court unfit to be an assignee, or to remove any assignee; and upon such

merely of increasing the number of votes at the election for assignees and thereby influencing the same, or to have undertaken to share with any creditor of the insolvent, in return for his vote, the commission or remuneration to be awarded to him as such assignee, the court shall declare such assignee to have forfeited the office of such assignee in regard to the insolvent estate for which he shall have been elected, and to be incapable of being again elected thereto; and it shall be lawful for such court, if it should so think fit, to further declare that the person so offending shall be incapable of being elected an assignee under the provisions of this Ordinance for and during his natural life, or for such period as such court shall determine and adjudge; and any person interested in the due administration of the insolvent estate may apply by motion to such court to declare any such assignee to have forfeited his office by reason of any such misconduct as aforesaid; and as often as a vacancy in the office of assignee shall be created by any such forfeiture, the court declaring the same shall order a new assignee to be chosen by the creditors, and the same proceedings shall be had thereon as on the original election of assignees.

Movable property to vest in assignees.

70. When any person shall have been adjudged an insolvent, all his personal estate and effects, present and future, wheresoever the same may be found or known, and all property which he may purchase, or which may revert, descend, be devised or bequeathed, or come to him before he shall have obtained his certificate, and all debts due or to be due to him, wheresoever the same may be found or known, and the property, right, and interest in such debts, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors of the insolvent, by virtue of their appointment; and after such appointment neither the insolvent nor any person claiming through or under him shall have power to recover the same, nor to make any release or discharge thereof; but such assignees shall have like remedy to recover the same in their own names as the insolvent himself might have had if he had not been adjudged insolvent.

Immovable property to vest in assignees.

71. When any person shall have been adjudged an insolvent, all lands in Sri Lanka to which any insolvent is entitled, and all interest to which such insolvent is entitled in any such lands, and of which he

might according to the laws of Sri Lanka have disposed, and all such lands in Sri Lanka as he shall purchase, or as shall descend, be devised, revert to, or come to such insolvent before he shall have obtained his certificate, and all deeds, papers, and writings respecting the same, shall become absolutely vested in the assignees for the time being, for the benefit of the creditors' of the insolvent, by virtue of their appointment, without any deed of conveyance for that purpose, and as often as any such assignee shall die or be lawfully removed or displaced, and a new assignee shall be duly appointed, such of the aforesaid real estate as shall remain unsold or unconveyed, shall, by virtue of such appointment, vest in the new assignee, either alone or jointly with the existing assignees, as the case may require, without any conveyance for that purpose.

72. If the assignees of the estate and effects of any insolvent having or being entitled to any land under a conveyance to him, or under an agreement for any such conveyance, subject to any perpetual yearly rent reserved by such conveyance or agreement, or having or being entitled to any lease or agreement for a lease, shall elect to take such land, or the benefit of such conveyance or agreement, or such lease or agreement for a lease, as the case may be, the insolvent shall not be liable to pay any rent accruing after the filing of the petition for sequestration of his estate against him, or to be sued in respect of any subsequent non-observance or non-performance of the conditions, covenants, or agreements in any such conveyance or agreement, or lease or agreement for a lease; and if the assignees shall decline to take such land, or the benefit of such conveyance or agreement or lease or agreement for lease, the insolvent shall not be liable if, within fourteen days after he shall have had notice that the assignees have declined, he shall deliver up such conveyance or agreement or lease or agreement for lease to the person then entitled to the rent, or having so agreed to lease, as the case may be; and if the assignees shall not (upon being thereto required) elect whether they will accept or decline such land or conveyance or agreement for conveyance, or such lease or agreement for a lease, any person entitled to such rent, or having so conveyed or agreed to convey, or leased or agreed to

Insolvent not liable to rents or covenants in conveyances, leases, &c., if assignees accept the same.

How if assignees decline.

How assignees compelled to elect.

lease, or any person claiming under him, shall be entitled to apply to the District Court, and the District Court may order them to elect and deliver up such conveyance or agreement for conveyance or lease, or agreement for lease, in case they shall decline the same, and the possession of the premises, or may make such other order therein as it shall think fit.

Assignees how compelled to elect whether they will abide by or decline agreement for the purchase of land.

73. If any insolvent shall have entered into any agreement for the purchase of any estate or interest in land, the vendor thereof, or any person claiming under him, if the assignees shall not (upon being thereto required) elect whether they will abide by and execute such agreement or abandon the same, may apply to the District Court, and the court may thereupon order them to deliver up the agreement and the possession of the premises to the vendor or person claiming under him, or may make such other order therein as such court shall think fit.

Assignees may execute power vested in the insolvent.

74. All powers vested in any insolvent which he might legally execute for his own benefit may be executed by the assignees for the benefit of the creditors in such manner as the insolvent might have executed the same.

Court may order insolvent to join in conveyances.

75. It shall be lawful for the District Court, upon the application of the assignees or of any purchaser from them of any part of the insolvent's estate, if such insolvent shall not try the validity of the adjudication, or if there shall have been a judgment establishing its validity, to order the insolvent to join in any conveyance of such estate or any part thereof; and if he shall not execute any such conveyance within the time directed by the order, such insolvent and all persons claiming under him shall be stopped from objecting to the validity of such conveyance, and all estate, right, or title which such insolvent had therein shall be as effectually barred by such order as if such conveyance had been executed by him.

Property mortgaged or pledged may be redeemed by the assignees.

76. If any insolvent shall have granted, conveyed, assured, or pledged any real or personal estate, or deposited any deeds, such grant, conveyance, assurance, pledge, or deposit being upon condition or power of redemption at a future day by payment of money or otherwise, the assignees may, before the time of the performance of such condition, make tender or payment of

money or other performance, according to such condition, as fully as the insolvent might have done, and after such tender, payment, or performance such real or personal estate may be sold and disposed of for the benefit of the creditors.

77. In every case the assignees may, with the approbation of the District Court, appoint the insolvent himself to superintend the management of the estate or to carry on the trade of such insolvent for behoof of the creditors, and in all or any other respects they may think fit to aid them in administering the insolvent's estate and effects, in such manner and on such terms as they may think best for the benefit of the persons interested in the estate.

Assignees may appoint the insolvent to manage the estate.

78. The assignees shall be subject to the orders of the District Court in their conduct as assignees; and it shall be lawful for the court at all times to summon the assignees, and require them to produce all books, papers, deeds, writings, and other documents relating to the insolvency in their possession, and to direct them to pay and deliver over to the court all moneys, books, papers, deeds, writings, and other documents which may have come to their possession or custody as such assignees.

Assignees to subject to orders of the court.

79. If any person adjudged insolvent shall at the time of the adjudication of insolvency be a member of a firm, it shall be lawful for the District Court to authorize the assignees, upon their application to commence or prosecute any action in the name of such assignees and of the remaining partner against any debtor of the partnership, and such judgment, decree, or order may be obtained therein as if such action had been instituted with the consent of such partner, and if such partner shall execute any release of the debt or demand for which such action is instituted such release shall be void :

Where one of firm is insolvent, the court may authorize action in name of the assignee; and of the other partner.

Provided that every such partner shall have notice given him of such application, and be at liberty to show cause against it, and if no benefit be claimed by him by virtue of the said proceedings shall be "indemnified against the payment of any costs in respect of such action in such manner as the court may direct; and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action as such court shall direct.

Partner to have notice, and may show cause.

As to sale of estates by assignees, conditions of sale, &c.

80. The assignees shall, subject to the directions of the creditors given at any meeting of such creditors, forthwith proceed to make sale of all the property belonging to the insolvent, real and personal, giving due notice thereof in the Gazette, and also such other notice as they shall think fit:

Provided that from the sale of the said personal property shall be excepted, until the creditors shall determine thereon, the wearing apparel, bedding, household furniture, and tools of trade of the insolvent and his family ; and

Provided that the sale of all real property shall take place in such manner and under such conditions as shall be determined on by the greater part in number and value of the creditors present at any meeting duly summoned;

Provided, however, that such conditions shall be subject to the approval or disapproval of the District Court on the application of any person interested therein.

As to wearing apparel, tools, &c., of insolvent.

81. It shall be lawful for the assignees, with the consent of the greater part in number and value of the creditors who shall have proved their debts present at any meeting of creditors whereof, and of the purpose of which ten days' notice shall have been given in the Gazette, to permit the insolvent to retain, for his own use, the whole or such part of his wearing apparel, bedding, household furniture and tools of trade excepted from the sale of his personal property, as the said creditors shall agree to allow to the said insolvent:

Provided that every such permission shall be subject to the approval or disapproval of the District Court on the application of any person interested in the due administration of the estate.

Assignees, with leave of the court, may bring or defend actions;

82. The assignees, with the leave of the District Court first obtained, upon application to such court, but not otherwise, may commence, prosecute, or defend any action which the insolvent might have commenced and prosecuted or defended, and in such case the costs to which they may be put in respect of such action shall be allowed out of the proceeds of the estate and effects of the insolvent; and with like leave of the court, after notice to the creditors, and subject to such condition (if any) as to obtaining the consent of

may compound debts;

creditors, or any proportion of them as the court shall think fit to direct, the assignees may take such reasonable part of any debt due to the insolvent's estate as may by composition be obtained, or may give time or take security for the payment of such debts, and may, with like leave of the court, submit to arbitration any difference or dispute between the assignees and any other person for or on account or by reason of anything relating to the estate and effects of the insolvent.

and refer disputes to arbitrators.

83. If the assignees shall agree in manner aforesaid to refer any matter in dispute to arbitration, such agreement of reference may be made a rule of court, whether such agreement contain a clause to that effect or not.

Reference to arbitration may be made a rule of court.

84. All persons from whom the assignees shall have recovered any real or personal estate, either by judgment or decree, are hereby discharged, in case the petition for sequestration or the adjudication of insolvency thereunder be afterwards annulled or dismissed, from all demands which may thereafter be made in respect of the same by the person against whom such adjudication was made, and all persons claiming under him ; and all persons who shall, without action, bona fide deliver up possession of any real or personal estate to the assignees, or pay any debt claimed by them, are hereby discharged from all claim of any such person as aforesaid in respect of the same, or any person claiming under him;

If petition or adjudication be annulled, &c., persons from whom the assignees have recovered, or who have bona fide paid the assignees, &c., discharged from claims by the insolvent.

Provided the person so delivering up any real or personal estate, or paying any debt, shall not have had notice of an action or other proceeding to dispute or annul the petition for sequestration or adjudication thereunder, and such action or other proceeding shall not have been commenced and prosecuted within the time and in manner allowed by this Ordinance-

85. If any assignee, indebted to the estate of which he is such assignee in respect of money, being part of the estate of the insolvent retained or employed by him, become insolvent, and obtain his certificate, it shall have the effect only of freeing his person from arrest and imprisonment, but his future effects, (his tools of trade, necessary household goods, and the necessary wearing apparel of himself, his wife, and children excepted,) shall remain

Assignee indebted to the estate becoming insolvent, his future property liable,

liable for so much of his debt to the estate of which he was assignee as shall not be paid by dividends under his insolvency, and for interest at the rate of nine *per centum* per annum on the whole debt.

any such action as shall be taxed by the proper officer in that behalf, subject to be reviewed in like manner and by the same authority as any other taxation of costs by such officer.

Suits not to abate by death or removal of assignees.

86. Whenever any assignee shall die or be removed, or a new assignee shall be chosen, no action shall be thereby abated, but the court in which any action is depending may, upon the suggestion of such death or removal and new choice, allow the name of the surviving or new assignee to be substituted in the place of the former, and such action shall be prosecuted in the name or names of the said surviving or new assignee or assignees in the same manner as if he had originally commenced the same.

Inaction against a debtor to the estate, in what case he may pay money into court.

87. If the assignees commence any action for any money due to the insolvent's estate before the time allowed for the insolvent to dispute the insolvency shall have elapsed, any defendant in any such action shall be entitled, after notice given to the assignees, to pay the same or any part thereof into the court in which such action is brought, and all proceedings with respect to the money so paid into court shall thereupon be stayed until such time shall have elapsed ; and if within that time the insolvent shall not have commenced such action or other proceeding as allowed by this Ordinance, and prosecuted the same with due diligence, the money shall be paid out of court to the assignees, but otherwise shall abide the event of such action or other proceeding, and upon such event shall be paid out of court, either to the assignees or the person adjudged insolvent, as the court shall direct; and after such payment of money so made into court it shall not be lawful for the person so adjudged insolvent to proceed against the defendant for recovery of the same money.

Limitation of actions.

88. Every action brought against any person for anything done in pursuance of this Ordinance shall be commenced within three months next after the act committed ; and if there be a judgment for the defendant, or if the plaintiff shall be nonsuited or discontinue his action after appearance thereto, the defendant shall receive such indemnity as to all costs, charges, and expenses incurred in and about

LAST EXAMINATION

89. The last examination of the insolvent shall be at the second public sitting of the court for the insolvent to surrender and conform, as advertised in the Gazette, and the insolvent shall prepare such balance sheet and accounts, and in such form, as the court shall direct, and shall subscribe such balance sheet and accounts, and file the same in court, and deliver a copy thereof to the assignees ten days at least before the day appointed for the last examination, or the adjournment day thereof for that purpose ; and such balance sheet and accounts, before such last examination, may be amended from time to time as occasion shall require and such court shall direct ; and the insolvent shall make oath of the truth of such balance sheet and accounts whenever he shall be duly required by the court so to do ; and the last examination of the insolvent shall in no case be passed unless his balance sheet shall have been duly filed as aforesaid , and the court may on the application of the assignees or of the insolvent make such allowance out of the estate of the insolvent for the preparation of such balance sheet and accounts, and to such person, as the court shall think fit, in any case in which it shall be made to appear to the satisfaction of the court, from the nature of the accounts or other good cause, that the insolvent required assistance in that behalf.

The insolvent to prepare balance sheet and accounts, &c.

90. If any insolvent apprehended by any warrant of the court shall, within the time allowed for him to surrender, submit to be examined, and in all things conform, he shall have the same benefit as if he had voluntarily surrendered.

Insolvents apprehended by warrant.

⁹**91.** It shall be lawful for the court, at the time appointed for the last examination of the insolvent, or at any enlargement or adjournment thereof, to adjourn such examination *sine die* ; and in such case the insolvent shall be free from arrest or imprisonment for such time (if any) as such

Court may adjourn last examination *sine die*.

court shall from time to time by endorsement on the summons of the insolvent, think fit to appoint.

If insolvent in custody, court may appoint a person to attend him with books, papers, &c., to enable him to prepare a balance sheet.

92. Whenever any insolvent is in prison or in custody under any process, attachment, execution, commitment or sentence, the court may appoint a person to attend him from time to time to produce to him his books, papers, and writings, in order that he may prepare his balance sheet, and show the particulars of his estate and effects, previous to his last examination and discovery thereof.

PROOF OF DEBTS AND PAYMENTS IN FULL

When and how debts may be proved.

93. At the sittings appointed by the court under section 30 of this Ordinance, and at every adjournment thereof, and at every other sitting held for proof of debts, and whereof and of the purport whereof ten days' notice shall have been given in the Gazette, every creditor of the insolvent may prove his debt by his own oath or affidavit ; and all bodies politic and public companies incorporated or authorized to sue or bring actions may prove by an agent, provided such agent shall in his deposition swear that he is such agent, and that he is authorized to make such proof:

Provided always that if it shall appear to the court that any clerk, agent, or other person is more fully cognizant of the nature of the debt sought to be proved than the creditor is, the said court shall allow such clerk, agent, or other person to prove such debt by his oath or affidavit ; and

Provided that any creditor who is out of Sri Lanka may, in case he have no known agent in Sri Lanka capable of proving the alleged debt, make the necessary affidavit before some person duly qualified to administer oaths in the place where he resides, such person being certified to be so qualified by some sufficient authority in that behalf;

Creditor may be examined upon oath.

Provided also that it shall be lawful for the court to examine upon oath, either by word of mouth or by interrogatories in writing, every person claiming to prove a debt, or to require such further proof, and to examine such other persons in relation thereto, as such court shall think fit.

94. Every person with whom any insolvent shall have really and bona fide contracted any debt or demand before the filing of the petition for sequestration of his estate shall, notwithstanding any prior act of insolvency committed by such insolvent, be admitted to prove the same as if no such act of insolvency had been committed ; provided such person had not at the time the same was contracted notice of any act of insolvency by such insolvent committed.

Bonafide creditors for debts contracted after an act of insolvency may prove

95. The court, out of the estate and effects of the insolvent, shall order payment of all taxes due by the insolvent at the time of his insolvency up to the end of the current quarter.

Amount of taxes.

96. If any person already appointed or employed, or who may be hereafter appointed to or employed, in any office in the National Savings Bank, or in the Loan Board, or in any friendly society duly incorporated, and being intrusted with the keeping of the accounts, or having in his hands or possession by virtue of his office or employment any moneys or effects belonging to such Savings Bank, Loan Board, or society, or any deeds or securities relating to the same, shall become insolvent, the court shall, upon application made by the order of any such society, or any committee thereof, or the major part of them assembled at any meeting thereof, order payment and delivery over to be made to such society, or to such person as such society or committee may appoint, of all moneys and other things belonging to such society, and shall also order payment out of the estate and effects of the insolvent of all sums of money remaining due which the insolvent received by virtue of his said office or employment, before any either of his debts are paid or satisfied.

If insolvent an officer of friendly society, court to order payment of debt to them before any other debts.

97. When any insolvent shall have been indebted at the time of filing the petition for the sequestration of his estate to any servant, clerk, or superintendent, labourer, cooly, or workman of such insolvent, in respect of the wages or salary of such servant, clerk, or superintendent, labourer, cooly, or workman, it shall be lawful for the court, upon proof thereof, to order so much as shall be so due, not exceeding three months' wages or salary, and not exceeding

Three months' wages or salary to clerks or servants.

three hundred rupees, to be paid to such servant, clerk, or superintendent, labourer, cooly, or workman, out of the estate of such insolvent, and such servant, clerk, or superintendent, labourer, cooly, or workman shall be at liberty to prove for any sum exceeding such amount.

whether such credit shall have been given upon any bill, bond, note, or other negotiable security or not, shall be entitled to prove such debt, bill, bond, note, or other security as if the same was payable presently, and receive dividends equally with the other creditors, deducting only thereout a rebate of interest for what he shall so receive, at the rate of nine *per centum* per annum, to be computed from the declaration of a dividend to the time such debt would have become payable according to the terms upon which it was contracted.

Apprentices discharged from their indentures.

98. When any person shall have been an apprentice to an insolvent at the time of the filing of a petition for sequestration of his estate, the filing of such petition shall be and inure as a complete discharge of the indenture whereby such apprentice was bound; and if any sum shall have been really and bona fide paid by or on the behalf of such apprentice to the insolvent as an apprentice fee, it shall be lawful for the court, upon proof thereof, to order any sum to be paid out of the estate of the said insolvent to or for the use of such apprentice which such court shall think reasonable, regard being had, in estimating such sum, to the amount of the sum so paid by or on behalf of such apprentice, and to the time during which such apprentice shall have resided with the insolvent previous to the filing of such petition.

101. Any person who at the time of filing a petition for sequestration of any estate as insolvent shall be surety or liable for any debt of the insolvent, or bail for the insolvent, if he shall have paid the debt or any part thereof in discharge of the whole debt (although he may have paid the same after the filing of the petition for sequestration of the estate), if the creditor shall have proved his debt under the insolvency, shall be entitled to stand in the place of such creditor as to the dividends and all other rights under the insolvency which such creditor possessed or would be entitled to in respect of such proof; or if the creditor shall not have proved, such surety or person liable, or bail, shall be entitled to prove his demand in respect of such payment as a debt under the insolvency, not disturbing the former dividends, and may receive dividends with the other creditors, although he may have become surety, liable, or bail as aforesaid after an act of insolvency committed by the insolvent:

Proof by sureties-

Mutual debts and credits may be set off.

99. Where there has been mutual credit given by the insolvent and any other person, or where there are mutual debts between the insolvent and any other person, the court shall state the account between them, and one debt or demand may be set against another, notwithstanding any prior act of insolvency committed by such insolvent before the credit given to or the debt contracted by him; and what shall appear due on either side on the balance of such account, and no more, shall be claimed or paid on either side respectively; and every debt or demand hereby made provable against the estate of the insolvent may also be set off in manner aforesaid against such estate; provided that the person claiming the benefit of such set-off had not, when such credit was given, notice of an act of insolvency by such insolvent committed.

Provided that such person had not, when he became such surety or bail, or so liable as aforesaid, notice of any act of insolvency by such insolvent committed.

Debts not payable at the time of the insolvency may be proved.

100. Any person who shall have given credit to the insolvent, upon valuable consideration, for any money or other matter or thing whatsoever which shall not have become payable when such insolvent committed an act of insolvency, and

102. The obligee in any bottomry or *respondentia* bond, and the assured in any policy of insurance made upon good and valuable consideration, shall be admitted to claim, and, after the loss or contingency shall have happened, to prove his debt or demand in respect thereof, and receive dividends with the other creditors as if the loss or contingency had happened before the filing of the petition for sequestration of the estate of such obligor or insurer; and the person effecting any policy of insurance

Claim and proof on bottomry or *respondentia* bonds, and policy of insurance.

upon ships or goods with any person (as a subscriber or underwriter) having become or becoming insolvent, shall be entitled to prove any loss to which such insolvent shall be liable in respect of such subscription, although the person so effecting such policy was not beneficially interested in such ships or goods, in case the person so interested is not within Sri Lanka.

under the insolvency before such surety shall have fully paid or satisfied the amount so proved.

Proof by annuity creditor.

103. Any annuity creditor of any insolvent, by whatever assurance the same be secured, and whether there were or not any arrears of such annuity due at the time of the filing the petition for sequestration, shall be entitled to prove for the value of such annuity, which value the court shall ascertain, regard being had to the original price given for such annuity, deducting therefrom such diminution in the value thereof as shall have been caused by the lapse of time since the grant thereof to the date of the filing of such petition.

105. If any insolvent shall before the filing of a petition for sequestration of his estate have contracted any debt payable upon a contingency which shall not have happened before the filing of such petition, the person with whom such debt has been contracted may, if he think fit, apply to the court to set a value upon such debt, and the court is hereby required to ascertain the value thereof and to admit such person to prove the amount so ascertained and to receive dividends thereon; or if such value shall not be ascertained before the contingency shall have happened, then such person may, after such contingency shall have happened, prove in respect of such debt and receive dividends with the other creditors, not disturbing any former dividends: provided such person had not when such debt was contracted notice of any act of insolvency by such insolvent committed.

Proof for contingent debt.

Proof by sureties for payment of annuities.

104. It shall not be lawful for any person entitled to any annuity granted by any insolvent to sue any person who may be collateral surety for the payment of such annuity until such annuitant shall have proved against such insolvent's estate for the value of such annuity, and for the arrears thereof; and if such surety after such proof pay the amount proved, he shall be thereby discharged from all claims in respect of such annuity ; and if such surety shall not (before any payment of the annuity subsequent to the filing the petition for sequestration shall have become due) pay the sum so proved, he may be sued for the accruing payments of such annuity until such surety shall have paid or satisfied the amount so proved, with interest thereon, from the time of notice of such proof and of the amount thereof being given to such surety; and after such payment or satisfaction such surety shall stand in the place of such annuitant in respect of such proof to the amount so paid or satisfied by such surety; and the certificate of the insolvent shall be a discharge to him for all claims of such annuitant or of such surety in respect of such annuity;

106. If any person who shall be adjudged insolvent after the commencement of this Ordinance shall have contracted before the filing of a petition for sequestration of his estate a liability to pay money upon a contingency which shall not have happened, and the demand in respect whereof shall not have been ascertained before the filing of such petition, in every such case, if such liability be not provable under any other provision of this Ordinance, the person with whom such liability has been contracted shall be admitted to claim for such sum as the court shall think fit; and after the contingency shall have happened, and the demand in respect of such liability shall have been ascertained, he shall be admitted to prove such demand and receive dividends with the other creditors, and, so far as is practicable, as if the contingency had happened and the demands had been ascertained before the filing of such petition, but not disturbing former dividends:

Claim and proof for contingent liability.

Provided that such surety shall be entitled to credit in account with such annuitant for any dividends received by such annuitant

Provided such person had not at the time such liability was contracted notice of any act of insolvency by such insolvent committed;

Provided also, that where any such claim shall not have, either in whole or in part, been converted into a proof within six months after the filing of such petition, it may upon the application of the assignees at any time after the expiration of such time, and if the court shall think fit, be expunged either in whole or in part from the proceedings,

prove a debt under such insolvency or have any claim entered upon the proceedings, without relinquishing such action; and the proving or claiming a debt under a petition for sequestration by any creditor shall be deemed an election by such creditor to take the benefit of such petition with respect to the debt so proved or claimed :

Proof for interest.

107. Upon all debts or sums certain, payable at a certain time, or otherwise, whereupon interest is not reserved or agreed for, and which shall be overdue at the filing of the petition for sequestration and provable thereunder, the creditor shall be entitled to prove for interest to be calculated at a rate not exceeding nine *per centum* per annum up to the date of the filing of such petition from the time when such debts or sums were payable, if such debts or sums be payable by virtue of some written instruments at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment.

Provided that such creditor shall not be liable to the payment to such insolvent or his assignees of the cost of such action so relinquished by him, and that where any such creditor shall have brought any action against such insolvent jointly with any other person, his relinquishing such action against the insolvent shall not affect such action against such other person;

Provided also, that any creditor who shall have so proved or claimed, if the petition for sequestration be afterwards dismissed, may proceed in the action as if he had not so proved or claimed.

Plaintiff or defendant obtaining judgment, &c., entitled to prove for costs, &c.

108. If any plaintiff in any action or petitioner for the sequestration of the estate of any person as insolvent shall have obtained any judgment, decree, or order against any person who shall thereafter become insolvent for any debt or demand in respect of which such plaintiff or petitioner shall prove under the insolvency, such plaintiff or petitioner shall also be entitled to prove for the costs which he shall have incurred in obtaining the same, although such costs shall not have been taxed at the time of the insolvency ; and if any defendant shall have obtained any judgment, decree, or order in any such action or in the matter of any such petition against any person who shall thereafter become insolvent, such defendant shall be entitled to prove for the costs which he shall have incurred in obtaining the same, although such costs shall not have been taxed at the time of the insolvency. •

110. Whenever it shall appear to the assignees, or to two or more creditors who have each proved debts to the amount of two hundred rupees or upwards, that any debt proved is not justly due, either in whole or in part, such assignees or creditors may make representation thereof to the court; and it shall be lawful for the court to summon and examine upon oath any person who shall have so proved, together with any person whose evidence may appear to the court to be material, either in support of or in opposition to any such debt; and if the court, upon the evidence given on both sides, or (if the person who shall have proved shall not attend to be examined, having been first duly summoned, or notice having been left at his last place of abode) upon the evidence adduced by such assignees or creditors, shall be of opinion that such debt is not due, either wholly or in part, the court shall be at liberty to expunge the same, either wholly or in part, from the proceedings:

Complaint of debts being proved which are not due investigation at whose instance and how

Proving debt to be an election not to proceed against the insolvent by action.

109. No creditor who has brought any action against any insolvent in respect of a demand prior to the filing of a petition for sequestration, or which might have been proved as a debt under the insolvency, shall

Provided that such assignees or creditors requiring such investigation shall, before it is instituted, sign an undertaking, to be filed with the proceedings, to pay such costs as the court shall adjudge to the creditor who has proved such debt, such costs to be recovered by application to the court, upon which an order for payment thereof may be made by the court.

Undertaking for costs.

Creditor having security not to receive more than other creditors.

111. No creditor having security for his debt, or having made any attachment of the goods and effects of the insolvent, shall receive upon any such security or attachment more than a rateable part of such debt, except in respect of any execution served and levied by seizure and sale upon or any mortgage of or lien upon any part of the property of such insolvent before the date of the filing of a petition for sequestration of his estate :

Provided always that nothing herein contained shall be deemed to give validity to any power of attorney to confess judgment* or consent to a judgment declared to be null and void by any provision of this Ordinance, nor to give validity to any judgment entered up under or by virtue of any such power of attorney* or consent, or to any execution executed or levied under or by virtue of any such power of attorney* or consent.

Accounts of assignees.

112. The assignees shall keep an account wherein they shall enter all property of the insolvent received by them and all payments made by them on account of the insolvent's estate, which account every creditor who shall have proved may inspect at all reasonable times; and it shall and may be lawful for the court, whenever it shall think fit, to summon the assignees to produce the said book, and the said court may examine and inspect the same or appoint some qualified person so to do.

AUDIT, AND MONEY BELONGING TO THE INSOLVENT ESTATE

Audit.

113. The District Court shall, whenever it shall think fit, appoint a public sitting to be holden after the sitting appointed for the last examination of the insolvent (of which public sitting and of the purport whereof ten days' notice shall be given in the Gazette) to audit the accounts of the assignees; and at such sitting the assignees shall deliver upon oath a true statement in writing of all money received by them respectively, and when, and on what account, and how the same has been employed; and the court shall examine such statement, and compare

the receipts with the payments, and ascertain what balances have been from time to time in the hands of such assignees respectively; and it shall be lawful for the court to examine the assignees upon oath touching the truth of such accounts, and to make therein all just allowances.

114. The District Court may order and allow to be paid out of the assets of any insolvent estate to the assignees appointed by the court or chosen by the creditors, as a remuneration for their services, such sum as shall, upon consideration of the amount of the said estate and the nature of the duties performed by such assignees, appear to be just and reasonable.

Remuneration to assignees.

115. It shall be lawful for and shall be the duty of the creditors of any insolvent estate, at the meeting held for the choice of assignees, immediately after such election, in case such election shall take place at such meeting, and in case such election shall not then take place, then immediately after the votes of the said creditors in regard to such election shall have been given, to nominate and appoint some bank within Sri Lanka, with which bank it shall be the duty of the assignees to open an account, and in case of a difference of opinion amongst the said creditors assembled at such meeting, the greater part in value of the said creditors shall determine upon the bank to be so nominated and appointed as aforesaid, and from and after any such nomination and appointment of any such bank the assignees of such insolvent estate whether chosen by the creditors or provisionally appointed, shall, as soon as they shall receive any sum of money exceeding one hundred rupees belonging to such estate, open an account with such bank in the name of the insolvent estate, and such sum and every other sum exceeding one hundred rupees so received by them shall with all convenient speed be paid into such bank, to be placed to the credit of such account, and all cheques or orders for the payment of any such money out of the said bank shall truly express the cause of such payment and the name of the person in whose favour it is drawn, and shall be signed by all the assignees, or by one of them for himself and co-assignees;

Creditors to choose a bank with which assignees shall open an account and lodge the money of the estate.

* Sections 31 and 32 of the Civil Procedure Code, relating to warrants and powers of attorney to confess judgment, are repealed by Law No. 20 of 1977.

DIVIDENDS

Provided that in case the creditors of any insolvent estate shall neglect to nominate any such bank it shall be lawful for the assignees to open an account with and pay all such moneys into any such bank in Sri Lanka as they shall select;

And provided that every provisional assignee appointed under this Ordinance before the meeting of creditors for the choice of assignees shall, pending such meeting, open an account with and pay all such moneys into any such bank in Sri Lanka as he shall select •

And provided that all assignees, whether provisional or elected, shall in regard to the bank with which such account shall be kept, and such moneys lodged, pursue such directions as they shall from time to time receive from any general meeting of the creditors of the insolvent estate ;

Provided that if there shall be no bank at the place where the assignees resides, any sum of money received by them exceeding one hundred rupees belonging to such estate shall forthwith be paid into the District Court.

Penalty upon assignee retaining or employing money belonging to the estate.

116. Any assignee who shall retain in his hands or knowingly permit any co-assignee so to retain any sum of money exceeding one hundred rupees, part of any insolvent estate, longer than until the first day after his receiving the same upon which it shall be possible for him to pay the said sum, or cause it to be paid, into some such bank or into the District Court as aforesaid, and who shall not have any just and lawful cause for so retaining the same, or shall employ for his own benefit, or knowingly permit any co-assignee so to employ, any sum of money part of any insolvent estate, shall forfeit and pay, for the benefit of the said estate, double the amount of the sum so retained or employed ; and the said sum so forfeited shall be deducted out of any claim the said assignee may have against the said estate, and the surplus, if any, shall be recovered by action at the suit of any two or more creditors in any competent court.

117. The District Court shall, whenever it shall think fit, appoint a public sitting to be holden after the sitting appointed for the last examination of the insolvent, when there are assets wherewith a dividend may be made (of which public sitting and of the purport whereof twenty-one days' notice shall be given in the Gazette), to make a dividend of the insolvent's estate, and shall at such sitting direct such part of the net produce of the insolvent's estate as it may think fit to be forthwith divided amongst such creditors as have proved debts under the insolvency in proportion to their respective debts, and shall make an order in writing under the hand of the District Judge for dividend accordingly, to be filed with the proceedings, which order shall contain an account of the amount of the debts proved, of the money to be divided, of how much in every ten rupees is then ordered to be paid to the creditors, and of the money allowed by the court to be retained, and of the reason for retaining the same ; and the assignees, in pursuance of such order, shall forthwith make such dividend in manner directed by the rules at any time in force under this Ordinance relating to the mode of payment of dividends by the assignees, but no dividend shall be declared unless the accounts of the assignees shall have been first audited.

Method of making dividends.

No dividend without previous audit

118. If the insolvent's estate shall not have been wholly divided upon the first dividend, the court shall, within eighteen months after the filing of the petition for sequestration of the estate, appoint a public sitting (where of and of the purport where of twenty-one days' notice shall be given in the Gazette) to make a second dividend, when all the creditors who have not proved their debts may prove the same, and at such sitting, but after such an audit as is directed by this Ordinance, shall order the balance in hand to be forthwith divided among such of the creditors as shall have proved their debts ; and such second dividend shall be final, unless any action be depending, or any part of the estate be standing out not sold or disposed of, or unless some other estate or effects of the insolvent shall afterwards come to the assignees, in which case they shall, as soon as may be, convert such estate

Final dividend within eighteen months, except where suit depending or estate standing out, &c

and effects into money ; and within two months after the same shall be so-converted, the same shall also be divided in manner aforesaid ; and if at the expiration of two years from the filing of any petition for sequestration, there shall remain any outstanding debts or other property due or belonging to the estate of the insolvent, which cannot, in the opinion of the court, be collected and received without unreasonable or inconvenient delay, it shall be lawful for the assignees, under the direction, of the court, to sell and assign such debts and other property, and also the books of the insolvent relating to his trade, dealings, or estate, in such manner and subject to such conditions as shall be ordered by the court ; and any person to whom any of such debts shall be so sold or assigned, may sue for the same in his own name as fully as the assignees of such insolvent might have done-

Outstanding debts, &c., may be sold, and the purchaser may sue for them.

order and disposition of himself and any co-assignee, or of either of them, any unclaimed dividend or any such undivided surplus as aforesaid, such assignee shall, within three months next after the expiration of one year from the time of the declaration and order of payment of such dividend, either pay the same to the creditor or other the person entitled to the same, or cause a certificate thereof to be filed in the District Court, containing a full and true account of the name of the creditor to whom such unclaimed dividend is due, and of the amount of such dividend, and shall in like manner as to any undivided surplus as aforesaid within three months next after the expiration of one year after the final declaration of dividends, cause a certificate stating the full and true amount of such surplus to be filed in the District Court, and every certificate to be filed as aforesaid shall be signed by the assignees filing the same, and every assignee shall, within one year next after the filing of any such certificate as aforesaid, pay or cause to be paid into the Treasury, to be carried to the account intituled " The Unclaimed Dividend Account ", the full amount of the unclaimed dividends mentioned in such certificate, or so much thereof as shall not have been then paid to the creditors or other persons entitled thereto, and also the full amount of such undivided surplus as aforesaid :

Remedy for dividend.

119. No action for any dividend shall be brought against any assignee by any creditor who shall have proved under the insolvency ; but if the assignees shall refuse to pay any such dividend, the court may order payment thereof, with interest for the time that it shall have been withheld, and may also order the costs of the application, and such order shall have the effect of a judgment by the said court.

UNCLAIMED DIVIDENDS

Unclaimed dividends, &c., to be paid into the Treasury.

120. All unclaimed dividends, and also any undivided surplus of an insolvent's estate over and above the amount finally directed to be divided amongst the creditors of any insolvent, shall be paid into the Treasury to be carried in the books of the Treasury to the account intituled " The Unclaimed Dividend Account ", subject to the order of the District Court, acting in prosecution of any insolvency for the payment thereof of any dividend due to any creditor.

Provided always that no certificate of any unclaimed dividends shall be filed until the expiration of one year after the declaration and order for payment of such dividends.

ALLOWANCES TO THE INSOLVENT

How unclaimed dividends, &c., in the hands of assignees to be disposed of.

121. Subject to any rule at any time in force under this Ordinance relating to unclaimed dividends, if any assignee under any insolvency shall have, either in his own hands, or at any bank, or otherwise subject to his order or disposition, or shall know that there is in the hands or subject to the

122. It shall be lawful for the District Court, if it think fit, from time to time to make such allowance to the insolvent out of his estate, until he shall have passed his last examination, as shall be necessary for the Support of himself and his family :

Allowance to insolvent for maintenance.

Provided always that no such allowance shall be made by the court for any period after the adjournment of the last examination *sine die*.

If estate pay ten rupees for every ten rupees and interest, surplus to be paid to insolvent.

123. If the produce of the estate of any insolvent shall be sufficient to pay ten rupees for every ten rupees of the liabilities, and interest as hereinafter mentioned, and to leave a surplus, the court may order such surplus to be paid to such insolvent, his executors, administrators, or assigns ; and every such insolvent shall be entitled to recover the remainder, if any, of the debts due to him ; but such surplus shall not be paid until all the creditors who have proved shall have received the interest due upon their debts.

CERTIFICATE OF CONFORMITY

Mode of obtaining certificate.

124. Forthwith after the insolvent shall have passed his last examination the District Court shall appoint a public sitting for the allowance of his certificate (whereof and of the purport whereof twenty-one days' notice shall be given in the Gazette and to the assignees), and at such sitting the assignees or any of the creditors of such insolvent who shall have given to the secretary of the court three clear days' notice in writing of his intention to oppose, may be heard against the allowance of such certificate, and the court having regard to the conformity of the insolvent to this Ordinance, and to his conduct as a trader, or in relation to his estate, before as well as after his insolvency, and whether the allowance of such certificate be opposed by any creditor or not, shall judge of any objection against allowing such certificate, and either find the insolvent entitled thereto and allow the same, or refuse or suspend the allowance thereof, or annex such conditions thereto as the justice of the case may require.

Form of certificate.

125. The certificate of conformity under this Ordinance shall be in writing under the hand of the District Judge, and shall certify that the insolvent has made a full discovery of his estate and effects and in all things conformed, and that so far as the court can judge there does not appear any reason to question the truth or fulness of such discovery (and shall be in the form Q in the Schedule, or to the like effect) ; and notice of the allowance of such certificate and of the class thereof shall be advertised in the Gazette in such manner as may be directed by the court.

126. The certificate of conformity allowed under this Ordinance, subject to the provisions herein contained, shall discharge the insolvent from all debts due by him when he became insolvent, and from all claims and demands made provable under the insolvency :

Effect of certificate.

Provided always that no such certificate shall release or discharge any person who was a partner with such insolvent at the time of his insolvency, or was then jointly bound or had made any joint contract with such insolvent, or who was a surety for him.

127. No insolvent shall be entitled to a certificate of conformity under this Ordinance, and any such certificate if allowed shall be void, if such insolvent shall after an act of insolvency, or in contemplation of insolvency, or with intent to defeat the object of this Ordinance, have parted with, concealed, destroyed, altered, mutilated, or falsified, or caused to be concealed, destroyed, altered, mutilated, or falsified, any of his books, papers, writings, or securities, or made or been privy to the making of any false or fraudulent entry in any book of accounts or other document with intent to defraud his creditors, or shall have concealed any part of his property, or if any person having proved a false debt under the insolvency, such insolvent being privy thereto or afterwards knowing the same, shall not have disclosed the same to his assignees within one month after such knowledge.

Certificate not granted or void if insolvent has concealed or falsified books, &c.,

or concealed any property, or permitted any fictitious debts to be proved.

128. Any contract or security made or given by any insolvent or other person unto or in trust for any creditor for securing the payment of any money due by such insolvent at his insolvency, as a consideration or with intent to persuade such creditor to forbear opposing, or to consent to the allowance of the insolvent's certificate, or to forbear to petition for the recall of the same, shall be void, and the money thereby secured or agreed to be paid shall not be recoverable.

Contract or security to induce creditor to forbear opposition void.

129. At any time within six months after any certificate of conformity shall have been allowed, and subject to such order as to deposit of costs as may be made by the Court of Appeal, any creditor of the

Certificate may be recalled.

insolvent, or any assignee, may apply to the Court of Appeal that such certificate may be recalled and delivered up to be cancelled ; and the Court of Appeal may, on good cause shown, order such certificate to be recalled and cancelled.

and abide the judgment of the Court of Appeal thereupon ; and upon any appeal duly entered and prosecuted relating to the certificate or to the judgment of the court as to any offence under this Ordinance charged against the insolvent, the Court of Appeal shall have power to rescind or vary the order of the District Court, or to make such other order thereon as it may think fit ; and upon an order for the allowance of any certificate by the Court of Appeal, and whether with conditions or not, or after a suspension thereof by order of the Court of Appeal or not, such certificate may be allowed and signed by the District Judge or by two or more Judges of the Court of Appeal.

Insolvent not liable upon any promise to pay debt discharged by certificate.

130. No insolvent, after his certificate shall have been allowed, shall be liable to pay or satisfy any debt, claim, or demand, from which he shall have been discharged by virtue of such certificate, or any part of such debt, claim, or demand, upon any contract, promise, or agreement made after the filing of the petition for sequestration of his estate.

Insolvent, having obtained his certificate, free from arrest ; may plead his certificate ; evidence under it.

131. Any insolvent who shall, after his certificate shall have been allowed, be arrested or have any action brought against him for any debt, claim, or demand provable under his insolvency, shall be discharged upon entering an appearance, and may plead in general that the cause of action accrued before he became insolvent, and may give this Ordinance and the special matter in evidence ; and such insolvent's certificate shall be sufficient evidence of the insolvency, petition for sequestration, and other proceedings precedent to the obtaining such certificate ; and if any such insolvent shall be taken in execution or detained in prison for such debt, claim, or demand where judgment has been obtained before the allowance of his certificate, it shall be lawful for any Judge of the court wherein judgment has been so obtained, on such insolvent's producing his certificate, to order any officer who shall have such insolvent in custody by virtue of such execution, to discharge such insolvent, and such officer shall be hereby indemnified for so doing.

Insolvent, if in execution, discharged.

133. The allowance of the certificate by the District Court, and any order for the refusal or suspension of the allowance thereof (except in case of appeal), shall be final and conclusive, and shall not be revised by the District Court, unless the said court shall thereafter see good and sufficient cause to believe that the allowance of such certificate, or the refusal or suspension thereof, has been obtained on false evidence, or by reason of an improper suppression of evidence, or has otherwise been fraudulently obtained, in any of which cases it shall and may be lawful for the District Court, upon the application of the insolvent, or of any creditor of the insolvent, and subject to such order as to deposit of a sum for costs, and to such notices to the insolvent and to creditors, by advertisement or otherwise, as the court shall think fit, to grant a rehearing of the matter, and to rehear the same accordingly, and upon such rehearing, the District Court shall make such order as to the allowance of the certificate, or the refusal or suspension thereof, as the justice of the case may require, in like manner, upon like conditions, and having regard to the like circumstances, so far as the case will admit, as upon any original hearing ; and in case the certificate shall have been previously allowed, and upon such rehearing, the allowance thereof shall not be confirmed, such certificate shall have no force or effect whatever, and the same shall be delivered up to the court and cancelled.

Allowance, refusal, or suspension of certificate (except in case of appeal) to be final in what cases.

Appeal against allowance or refusal of certificate.

132. No such certificate shall be delivered to the insolvent until after the expiration of the time allowed for entering an appeal ; and if an appeal be duly entered against the judgment of such court for the allowance of the certificate, or for the refusal, the withholding, or the class of the certificate, and notice thereof be given to the court in such manner as may by any general rule or order to be made in pursuance of this Ordinance be directed, the certificate shall be further kept by the court,

ARRANGEMENTSBYDEED

Deeds of arrangement entered into between any debtor and certain of his creditors, in what cases binding on all.

134. Every deed or memorandum of arrangement now or hereafter entered into between any person and his creditors, and signed by or on behalf of six-sevenths in number and value of those creditors, whose debts amount to one hundred rupees and upwards, touching such person's liabilities and his release therefrom, and the distribution, inspection, conduct, management, and mode of winding up of his estate, or all or any of such matters or any matters having reference thereto, shall, (subject to the conditions hereinafter mentioned) be as effectual and obligatory in all respects upon all the creditors who shall not have signed such deed or memorandum of arrangement as if they had duly signed the same; and such deed or memorandum, when so signed, shall not be or be liable to be disturbed or impeached by reason of any prior or subsequent act of insolvency:

Provided always, that every creditor shall be accounted a creditor in value, in respect of such amount only, as upon an account fairly stated, after allowing the value of mortgaged property and other such available securities or liens from such person, shall appear to be the balance due to him.

When deed not to be effectual against creditor who has not signed.

135. No such deed or memorandum of arrangement shall be effectual or obligatory upon any creditor who shall not have signed the same, until after the expiration of three months from the time at which such creditor shall have had notice from such person of his suspension of payment, and of such deed or memorandum of arrangement, unless such debtor shall within such time obtain from the District Court an order or certificate of the said court, declaring or certifying that such deed or memorandum of arrangement has been duly signed by or on behalf of such majority of the creditors as aforesaid ; and it shall be lawful for the District Court of the district in which the person shall have resided or carried on business for six months next immediately preceding his suspension of payment, to make such order or certificate on the petition of any such person, and to exercise jurisdiction in and over the matters of any such application ; and no creditor who shall not have had fourteen days' notice of any intended application for such order or certificate as aforesaid shall be bound thereby.

136. When the trustee or inspector under any such deed or memorandum of arrangement, or, if there shall be no such trustee or inspector, when any two of the creditors shall be satisfied that six-sevenths in number and value of the creditors whose debts amount to one hundred rupees and upwards, have signed such deed or memorandum, it shall be lawful for such trustee or inspector, or for such two creditors, as the case may be, to certify the same to the District Court in writing, and such certificate shall be filed in court, and shall thereupon be prima facie evidence in all courts that such deed or memorandum of arrangement has been so signed.

Trustee or inspector, &c., to certify as to the deed being signed.

137. Every such certificate as last aforesaid shall have appended thereto a full account of the debts of such debtor, together with the names, residences, and occupations of his creditors, and shall be accompanied by an affidavit by such debtor verifying the same; and any omission in such account or the insertion therein of any debt not really existing or of any larger amount of debt than that really existing, and which shall appear to the court to have been made through the culpable negligence or fraud of such debtor, with intent to defraud any of his creditors, shall deprive him of the benefit of the provisions of this Ordinance with respect to arrangements by deed, and of the discharge proposed in any such deed or memorandum of arrangement;

Account of debt, &c., to be annexed to such certificate.

Provided always that any omission, insertion, or incorrectness in such account, which shall not have been made through such culpable negligence or fraud as aforesaid, shall not defeat or otherwise affect such deed or memorandum of arrangement.

138. The creditors of every such debtor shall have the same rights respectively as to set-off, mutual credit, lien, and priority, and joint and separate assets shall be distributed in like manner as in insolvency, and no creditor shall be prejudiced or affected by being a party to any such deed or memorandum of arrangement as aforesaid, or by the same being obligatory upon him as to his right or remedy against any person other than such debtor; and every person who would be entitled to prove in insolvency shall be deemed a creditor within the meaning of the provisions of this Ordinance with respect to arrangement by deed.

Rights of creditors.

Court may interfere in case of improper administration of the estate.

139. If any creditor of any person shall be desirous to show that the administration of the estate of such person has not been duly conducted, in conformity with such deed or memorandum of arrangement, it shall be lawful for him to apply to the District Court by petition, supported by affidavit, stating any facts or circumstances to show that such administration has not been duly conducted, and thereupon the court shall have full power, and it is hereby fully authorized, to consider the subject-matter of such application, and if it shall think fit may direct any inquiry, and in such manner as it shall think proper, into the subject of such application, and generally may make such order and exercise such jurisdiction in or over the subject-matter of such application and the costs thereof as to the said court shall appear just.

shall be personally served with a copy of the notice of the meeting to decide upon such offer as aforesaid, and of the purpose for which the same is called, so long before such meeting as that he may have time to vote thereat, and such creditor shall be entitled to vote by letter of attorney, executed and attested in manner required for a creditor's voting in the choice of assignees; and if any creditor shall agree to accept any gratuity or higher composition for assenting to such offer, he shall forfeit the debt due to him, together with such gratuity or composition ; and the insolvent shall (if thereto required) make oath before the court that there has been no such transaction between him or any person with his privity and any of the creditors, and that he has not used any undue means or influence with any of them to attain such assent.

COMPOSITION AFTER ADJUDICATION OF INSOLVENCY

EVIDENCE

If after adjudication certain of the creditors accept composition, it shall bind the rest.

140. Any insolvent, at any time after he shall have passed his last examination, may call a meeting of his creditors (whereof and of the purport whereof twenty-one days' notice shall be given in the Gazette), and if the insolvent or his friend shall make an offer of composition, and nine-tenths in number and value of the creditors assembled at such meeting shall agree to accept the same, another meeting for the purpose of deciding upon such offer shall be appointed to be holden, whereof such notice shall be given as aforesaid ; and if at such second meeting nine-tenths in number and value of the creditors then present shall also agree to accept such offer, the District Court shall and may, upon such acceptance being testified by them in writing, and upon payment of such sum as the court shall direct, annul the adjudication of insolvency and supersede or dismiss the petition for sequestration; and every creditor of such insolvent shall be bound to accept of such composition so agreed to.

142. The proper officer of the District Court shall, on the reasonable request of any insolvent, or of any creditor of such insolvent (having proved his debt), or on the like request of the registered attorney of any such insolvent or creditor, produce and show to such insolvent, creditor, or registered attorney at such times as the court shall direct, every petition for sequestration and adjudication of insolvency against or by such insolvent, and all orders and proceedings under any such petition or adjudication; and the court shall order the assignees or officer of court, as the case may be, to permit such insolvent, creditor, or registered attorney to have inspection at all reasonable times of all books, papers, and writings, relating to the matters of such petition or adjudication, and the estate of the insolvent in the possession of the assignees or filed in court in such matter, and permit him to inspect and examine the same; and such assignees or such officer shall provide for any such insolvent, creditor, or registered attorney requiring the same, a copy of such petition or other proceeding, books, papers, and writings as aforesaid, or of such part thereof as shall be required, receiving such fee, or sum, or rate of charge as may be authorized by the court in that behalf.

Officer of court to produce proceeding and give copies thereof.

Mode of voting in deciding upon such composition.

141. In deciding upon the offer of composition, no creditor whose debt is below two hundred rupees shall be reckoned in number, but the debt due to such creditor shall be computed in value; and every creditor to the amount of five hundred rupees and upwards, residing out of Sri Lanka,

If insolvent does not dispute the insolvency, Gazette to be evidence of the adjudication and petition, as against insolvent, and in suits or debts, &c., by assignees.

143. If the insolvent shall not (if he were within Sri Lanka at the date of the adjudication) within twenty-one days after the advertisement of the insolvency in the Gazette, or (if he were in any part of India, Pakistan or Bangladesh at the date of the adjudication) within three months after such advertisement, or (if he were elsewhere at the date of adjudication) within twelve months after such advertisement, have commenced an action or other proceeding to dispute or annul the petition for sequestration of his estate as insolvent, and shall not have prosecuted the same with due diligence and effect, the Gazette containing such advertisement shall be conclusive evidence in all cases as against such insolvent, and in all actions brought by the assignees for any debt or demand for which such insolvent might have sustained any action had he not been adjudged insolvent, that such person so adjudged insolvent became an insolvent before the date and filing of the petition for sequestration, and that such petition was filed on the day on which the same is stated in the Gazette to bear date.

In other cases no proof of petitioning creditor's debt or act of insolvency, unless notice to dispute them.

144. In any action, (other than an action brought by the assignees for any debt or demand for which the insolvent might have sustained an action had he not been adjudged insolvent), and whether at the suit of or against the assignees, or against any person acting under the warrant of the court, for anything done under such warrant, no proof shall be required at the trial, of the petitioning creditor's debt, or of the act of the insolvency respectively, unless the other party in such action shall, if defendant at or before answering, and if plaintiff before issue joined, give notice in writing to such assignees or other person that he intends to dispute one or both, and which of such matters; and in case such notice shall have been given, if such assignees or other person shall prove the matter so disputed, or the other party admit the same, the Judge before whom the cause shall be tried may (if he think fit) grant a certificate of such proof or admission; and such assignees or other person shall be entitled to the costs occasioned by such notice, and such costs shall, if such assignees or other person shall obtain a judgment, be added to the costs, and if the other party

shall obtain a judgment, shall be deducted from the costs which such other party would otherwise be entitled to receive from such assignees or other person.

145. The court may, in all matters before it, award such costs as to such court shall seem fit and just; and in all cases in which costs shall be so awarded against any person, it shall and may be lawful for such court to cause such costs to be recovered from such person in the same manner as costs awarded by such court in civil suits may be recovered.

Court may award costs, and how recovered.

146. Every person summoned to attend before the court as a person known or suspected to have any of the estate of the insolvent in his possession, or who is supposed to be indebted to the insolvent, shall have such costs and charges as the court in its discretion shall think fit, and every witness summoned to attend before the court shall have his necessary expenses tendered to him in like manner as is now by law required upon service of subpoena to a witness in a civil action.

Witnesses and persons known or suspected to have insolvent's property, &c., when entitled to costs.

OFFENCES AGAINST THE LAW RELATING TO INSOLVENCY AND OTHER MATTERS IN THIS ORDINANCE

147. If any person adjudged insolvent shall not upon the day limited for his surrender, and before three of the clock of such day, or at the hour and upon the day allowed him for finishing his examination, after notice thereof in writing to be served upon him personally or left at the usual or last known place of abode or business of such person, or personal notice in case such person be then in prison, and notice given in the Gazette of the filing of the petition for sequestration of his estate as insolvent, as the case may be, and of the sittings of the court (having no lawful impediment proved to the satisfaction of the court at such time, and allowed by the court by a memorandum thereof then made on the proceedings), surrender himself to such court and sign or subscribe such surrender, and submit to be examined before such court from time to time; or if any such insolvent upon such examination shall not discover all his real and personal estate, and how and to whom, upon what consideration, and when he

Insolvent not surrendering,

not discovering his property,

disposed of, assigned, or transferred any of such estate (and all books, papers, and writings relating thereunto), except such part as shall have been really and bona fide before sold or disposed of in the way of his trade or laid out in the ordinary expenses of his family ; or if any such insolvent, upon such examination, shall not deliver up to such court all such parts of such estate, and all books, papers, and writings relating thereunto, as shall be in his possession, custody, or power (except the necessary wearing apparel of himself, his wife, and children) ; or if any such insolvent shall remove, conceal, or embezzle any part of such estate to the value of one hundred rupees or upwards, or any books of accounts, papers, or writings relating thereto, with intent to defraud his creditors, every such insolvent shall be liable to such term of imprisonment not less than seven years as the Court of Appeal shall judge, or shall be liable to imprisonment, with or without hard labour, for any term not exceeding seven years.

not delivering his books. &c-

removing, concealing, or embezzling property, books, &c-

Punishment.

Insolvent destroying or falsifying books, &c.

Punishment.

Insolvent obtaining goods on credit under false pretences,

or removing or concealing goods so obtained.

Punishment.

148. If any insolvent shall, after an act of insolvency committed, or in contemplation of insolvency, or with intent to defeat the object of the law relating to insolvents, destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding three years.

149. If any insolvent shall within three months next preceding the date of the filing of the petition for sequestration of his estate, under the false colour and pretence of carrying on business and dealing in the ordinary course of trade, obtain on credit from any other person any goods or property with intent to defraud the owner thereof ; or if any insolvent shall, within such time and with such intent, remove, conceal, or dispose of any goods or property so obtained, every such insolvent shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding two years.

150. Any insolvent or insolvent's wife who shall upon any examination directed or authorized by this Ordinance, and any person who shall upon any examination, or in any affidavit or deposition so authorized or directed, or in any affidavit or deposition, wilfully and corruptly give false evidence, or wilfully and corruptly swear anything which shall be false, being convicted thereof, shall be liable to the penalties prescribed for the offence of giving false evidence in a judicial proceeding.

False evidence.

Giving false evidence

151. If at the sitting appointed for the last examination of any insolvent, or at any adjournment thereof, it shall appear to the District Court that the insolvent has committed any of the offences hereinafter enumerated, the court shall refuse to grant the insolvent any further protection from arrest, and if at any sitting or adjourned sitting for the allowance of the certificate of any insolvent, it shall appear that he has committed any of such offences, the court shall refuse to grant such certificate, or shall suspend the same for such time as it shall think fit, and shall in like manner refuse to grant the insolvent any further protection—

If at last examination it appears that insolvent has been guilty of any of the following offences, further protection refused ; certificate refused or suspended.

(i) if the insolvent shall at any time after the filing of the petition for sequestration of his estate, or within two months next preceding the filing of such petition, with intent to conceal the state of his affairs, or to defeat the objects of the law of insolvency, have destroyed any book, paper, deed, writing, or other document relating to his trade, dealings, or estate ;

Offences.

(ii) if the insolvent shall, with the like intent, have kept or caused to be kept false books, or have made false entries in, or withheld entries from, or wilfully altered or falsified any book, paper, deed, writing, or other document relating to his trade, dealings, or estate ;

(iii) if the insolvent shall have contracted any of his debts by any manner of fraud, or by means of false pretences, or shall by any manner of fraud, or by means of false pretences, have obtained the forbearance of any of his debts by any of his creditors ;

(iv) if the insolvent shall at any time within two months next preceding the filing of the petition for sequestration of his

estate, fraudulently in contemplation of insolvency, and not under pressure from any of his creditors, with intent to diminish the sum to be divided among his creditors, or to give an undue preference to any of his creditors, have paid or satisfied any such creditor wholly or in part, or have made away with, mortgaged, or charged any part of his property, of what kind soever ;

(v) if the insolvent shall at any time after the filing of the petition for sequestration of his estate, and with intent to diminish the sum to be divided among his creditors, or to give an undue preference to any of his creditors, have concealed from the District Court or his assignees any debt due to or from him, or have concealed or made away with any part of his property, of what kind soever ;

(vi) if the insolvent shall under his insolvency, or at any meeting of his creditors, within three months next preceding the filing of the petition for sequestration of his estate, have attempted to account for any of his property by fictitious losses or expenses ;

(vii) if the insolvent shall, within six months next preceding the filing of the petition for sequestration of his estate, have put any of his creditors to any unnecessary expense by any vexatious and frivolous defence or delay to any action for the recovery of any debt or demand provable under his Insolvency, or shall be indebted in costs incurred in any action so vexatiously brought or defended ;

(viii) if the insolvent shall, at any time after the filing of the petition for sequestration of his estate, have wilfully prevented or withheld the production of any book, paper, deed, writing, or other document relating to his trade, dealings, or estate ;

(ix) if the insolvent (being a trader) shall, during his trading have wilfully, and with intent to conceal the true state of his affairs, have omitted to keep proper accounts, or shall wilfully and with intent to conceal the true state of his affairs have kept his accounts imperfectly, carelessly, and negligently.

152. The assignees for the time being of the estate and effects of any insolvent, when the accounts relating to his estate shall have become records of the court, shall be deemed judgment-creditors of such insolvent for the total amount of the debt which shall by such accounts appear to be due from him to his creditors ; and every creditor of any insolvent immediately after the proof of his debt shall have been admitted, shall be deemed a judgment-creditor of such insolvent, to the extent of such proof ; and the court, when it shall have refused to grant the insolvent any further protection, or shall have refused or suspended his certificate, shall, on the application of such assignees or of any such creditor, grant a certificate in the form R in the Schedule, and every such certificate shall have the effect of a judgment entered up in the said court, until the allowance of the certificate of conformity of such insolvent ; and the assignees, or the creditor to whom, according to such certificate, the insolvent shall be indebted as therein mentioned, shall be thereupon entitled to issue and enforce a writ of execution against the body of such insolvent ; and the production of any such certificate to the secretary of such court shall be sufficient authority to him to issue such writ :

Provided always that every such last-mentioned certificate shall be deemed to have been cancelled and discharged by the allowance of the certificate of conformity of such insolvent from the time of such allowance ;

Provided also that no execution by virtue of any certificate which shall be granted to any creditor or assignees as aforesaid, shall be issued, nor shall any such certificate or execution in any manner affect any estate or effects which shall come to or be acquired by the insolvent, after the allowance of his certificate of conformity.

153. The assignees for the time being may issue and enforce execution upon any such certificate as last aforesaid, as fully to all intents and purposes as the assignees to whom such certificate shall have been originally granted.

On refusal of certificate or protection, the court may grant assignees or creditor a certificate on which they may sue out execution against the insolvent.

Assignees for the time being may issue execution on such certificate

Insolvent taken, not discharged for one year.

154. If any insolvent shall be taken in execution after the refusal of protection, or after the refusal or suspension of his certificate, he shall not be discharged from such execution, until he shall have been in prison for the full period of One year, except by order of the District Court.

List of uncertificated insolvents to be published in the Gazette every six months.

155. Every District Judge shall transmit to the Attorney-General on or before the fifteenth day of January and the fifteenth day of July in each year, the name and residence of every insolvent whose certificate shall have been refused or suspended by such Judge, and who shall then be uncertificated ; and the said Attorney-General shall thereupon cause a list, alphabetically arranged, showing the names and residences of all such uncertificated insolvents to be prepared, and published in the Gazette for general information,

Any person refusing to be sworn, or refusing to answer, or not answering fully, or refusing to sign examination, or to produce books, &c., maybe committed.

156. If any insolvent, or the wife of any insolvent, shall refuse to make and sign the declaration contained in the Schedule, or if any other person shall refuse to be sworn, or shall refuse to answer any lawful question put by the court, or shall not fully answer any such question to the satisfaction of the court, or shall refuse to sign his examination when reduced into writing (not having any lawful objection allowed by the court), or shall not produce any books, papers, deeds, and writings, or other documents in his custody or power, relating to any of the matters under inquiry, which such insolvent, wife of the insolvent, or person is required by the court to produce, and to the production of which he shall not state any objection allowed by the court, it shall be lawful for the court, by warrant, to commit such insolvent, wife of such insolvent, or other person to prison, there to remain without bail until he shall submit himself to such court to be sworn, and full answers make to the satisfaction of such court to all such lawful questions as shall be put by the court, and sign such examination, and produce such books, papers, deeds, writings, and other documents in his custody or power, to the production of which no such objection as aforesaid has been allowed.

Questions to be Specified In warrant.

157. If any person be committed by the District Court for refusing to answer or for not fully answering any question put to him by the court, such court shall in its warrant of commitment specify every such question :

Provided that if any person so committed shall bring any habeas corpus in order to be discharged from such commitment, and there shall appear on the return of such habeas corpus any such insufficiency in the form of the warrant whereby such person was committed, by reason whereof he might be discharged, it shall be lawful for the Court of Appeal, and such court is hereby required, to commit such person to the same prison, there to remain until he shall conform, unless it shall be shown to such court by the person committed that he has fully answered all lawful questions put to him by the District Court, or if such person was committed for refusing to be sworn or for not signing his examinations, unless it shall appear to the Court of Appeal that he had a sufficient reason for the same :

Provided also that the Court of Appeal shall, if required thereto by the person committed, in case the whole of the examination of the person so committed shall not have been stated in the warrant of commitment, inspect and consider the whole of the examination of such person whereof any such question was a part ; and if it shall appear from the whole examination that the answer or answers of the person committed is or are satisfactory, such court shall and may order the person so committed to be discharged.

158. If any person shall disobey any rule or order of the District Court, duly made by such court, for enforcing any of the purposes and provisions of this Ordinance, or made or entered into by consent of such person for carrying into effect any of such purposes or provisions, the court may, by warrant in the form S in the Schedule, commit the person so offending to prison, there to remain without bail until such court, or the Court of Appeal, shall make order to the contrary,

Persons disobeying any order of court to be committed.

If petitioning creditor's debt be not due, or if act of insolvency be not proved, and petition be Filed fraudulently or maliciously, court may order satisfaction

159. If the debt stated by the petitioning creditor in his affidavit, or in his petition for sequestration, and verified by affidavit to be due to him from any person, shall not be really due, or if, after a petition for sequestration filed, it shall not have been proved that the person against whom such petition has been filed had committed an act of insolvency, and it shall also appear that such petition was filed fraudulently or maliciously, the court shall and may, upon petition of the person against whom any such petition was so filed, examine into the same, and order satisfaction to be made to him for the damages by him sustained.

insolvent's estate not before come to the knowledge of the assignees, shall be allowed five per centum thereupon, and such further reward as the assignees, with the consent of the court, shall think fit to be paid out of the estate recovered on such discovery.

Petitioning creditor compounding with person after insolvency to forfeit his debt and pay the money, &c.

160. If any petitioning creditor shall, after the filing of his petition, receive any money, satisfaction, or security for his debt or any part thereof, whereby such petitioning creditor may receive more for every ten rupees in respect of his debt than the other creditors, such petitioning creditor shall forfeit his whole debt, and shall also repay or deliver up such money, satisfaction, or security, or the full value thereof, to the assignees of such insolvent for the benefit of the creditors of the insolvent.

162. If any creditor of any insolvent shall obtain any sum of money, or any property whatever, or security for money, from any person as an inducement for forbearing to oppose or for consenting to the allowance of the certificate of such insolvent, or to forbear to petition for the recall of the same, every such creditor so offending shall forfeit and lose for every such offence the treble value or amount of such money, property, or security so obtained (as the case may be).

Obtaining money, &c., to forbear opposition to or to consent to allowance of, certificate

Penalty.

Concealing insolvent's effects.

161. Any person who shall wilfully conceal any real or personal estate of the insolvent, and who shall not, within forty-two days after the filing of the petition for sequestration, discover such estate to the court or to the assignees, shall forfeit the sum of one thousand rupees, and double the value of the estate so concealed ; and any person, other than the person who shall have concealed the same, who shall after such time voluntarily discover to the court or to the assignees any part of such

163. Any person who shall insert or cause to be inserted in the Gazette, or in any newspaper, any advertisement under this Ordinance without authority, or knowing the same to be false in any material particular, shall be guilty of an offence, and liable on conviction to punishment by fine or imprisonment as the High Court shall award.

Inserting advertisements without authority.

164. Sections 36 and 37 shall apply and extend to State debtors as if the State had been specially mentioned in the said sections, and 37 to apply to State debtors.

Penalty. Allowance to persons making discovery.

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

" registered attorney " means an attorney-at-law appointed under Chapter V of the Civil Procedure Code by a party or his recognized agent to act on his behalf.

[Section 10.]

SCHEDULE

Form A

THE INSOLVENCY ORDINANCE

DECLARATION OF INSOLVENCY

I, the undersigned A. & of. do hereby declare that I am unable to meet my engagements with my creditors.

Dated at the hour of o'clock (in the forenoon, or at noon, or in the afternoon, as the case may be) this. day of. 19.....

Witness

C.D.

(Signed) A. B.

INSOLVENTS

[Cap. 103

Form B

[Section 16.]

THE INSOLVENCY ORDINANCE

PETITION BY A CREDITOR FOR SEQUESTRATION OF HIS DEBTOR'S ESTATE

To the District Court of.

The humble petition of.....

Showeth,

That.....having resided (or carried on business, as the case may be) for six months next immediately preceding the date of this petition, within the district of this court, that is to say, at..... is indebted unto your petitioner in the sum of five hundred rupees (if two petitioners, seven hundred rupees, and if three or more, one thousand rupees, as the case may be), and that your petitioner has been informed and believes that the said.....did lately commit an act of insolvency within the true intent and meaning of the Insolvency Ordinance.

Your petitioner therefore humbly prays that on proof of the requisites in that behalf the estate of the said.....may be adjudged insolvent and placed under sequestration.

And your petitioner shall ever pray, &c.

Signed by the petitioner on the.....day of.....,19. . . . , in the presence of.....

If the petition be by partners, alter the form accordingly, and let it be signed by one on behalf of himself and partners.

If the petition be by several, not being partners, then it must be signed by each, and in such case the names of the several petitioners should be stated in the attestation or attestations relating thereto respectively.

If the petitioner cannot speak to the place of residence or business of the debtor, strike out the averment as to that. and annex to the petition a separate affidavit of some person who can depose to the fact.

If the petition be against partners, alter the form accordingly.

Form C

[Section 16.]

THE INSOLVENCY ORDINANCE

AFFIDAVIT OF TRUTH OF ALLEGATIONS IN PETITION

.....day of..... 19.....

..... of..... in the district of..... the petitioner named in the petition hereunto annexed, maketh oath and saith that the several allegations in the said petition (and in the list annexed thereto, where the petition is by the insolvent himself) are true.

Sworn at..... this.....day of..... 19. . . . , before me,.....

Form D

[Section 16.]

THE INSOLVENCY ORDINANCE

PETITION BY A PERSON FOR SEQUESTRATION OF HIS OWN ESTATE AS INSOLVENT

The humble petition of.....

Showeth,

That your petitioner having resided (or carried on business, as the case may be) for six months next immediately preceding the date of this petition, within the district of this court, that is to say, at..... and

being unable to meet his engagements with his creditors, whose names are inserted in the list to this his petition annexed, has filed a declaration of insolvency in manner and form in that case made and provided, and that your petitioner verily believes that he can make it appear to the satisfaction of the court that his available estate is sufficient to pay his creditors at least two rupees and fifty cents on every ten rupees (or, that your petitioner is in actual custody within the walls of the prison at.for debt, and has been so since the.day of.last).

That your petitioner has examined the said list, and that it contains a full and true account of your petitioner's debts and the claims against him, with the names of his creditors and claimants, and the dates of contracting the debts and claims severally, as near as such dates can be slated, the nature of the debts and claims and securities (if any) given for the same, and that there is reasonable ground for disputing so much of the debts as are thereby mentioned as disputed ; and also a true account of the nature and amount of his property, and an inventory of the same and of the debts owing to him, with their dates as nearly as such dates can be stated, and the names of his debtors, and the nature of the securities (if any) which he has for such debts.

Your petitioner therefore humbly prays that on proof of the requisites in that behalf his estate may be adjudged insolvent and placed under sequestration.

A id your petitioner shall ever pray, &c.

Signed by the petitioner on theday of. 19., in the presence of.....

If the petition be by partners, alter the form accordingly, and state the names of the several petitioners in the attestation or attestations relating thereto respectively.

[Section 17.]

Form E

THE INSOLVENCY ORDINANCE

ORDER TO PROSECUTE A PETITION FOR SEQUESTRATION IN A PARTICULAR DISTRICT

In the Court of Appeal of the Republic of Sri Lanka, the.day of. 19....

In the matter of a petition for sequestration as insolvent of the estate of C. D.. of.....

Upon application made to.-this day by.of. (attorney-at-law) for. and upon reading the affidavit of. it is hereby ordered that the petition for sequestration as insolvent of the estate of the above-named C. D. be prosecuted in the District Court of.....

[Section 17.]

Form F

THE INSOLVENCY ORDINANCE

ORDER TO CONSOLIDATE PROCEEDINGS

In the Court of Appeal of the Republic of Sri Lanka, the.-day of. 19.

Ex parte.....

In the matter of.

Upon application made to.this day by,-of. (attorney-at-law) for. and upon reading the affidavit of. it is ordered that (staling the order).

Form G

THE INSOLVENCY ORDINANCE

ORDER TO TRANSFER A PETITION FOR SEQUESTRATION. &C.. FROM ONE DISTRICT COURT TO ANOTHER DISTRICT COURT

In the Court of Appeal of the Republic of Sri Lanka, the. day of., 19.

Ex parte.....

In the matter of.

Upon application made to. this day by. of,, (attorney-at-law) for. and upon reading the affidavit of. it is ordered that (*stating the order*).

[section 27]

Form H

THE INSOLVENCY ORDINANCE

ORDER FOR AN ATTACHMENT UPON THE ESTATE OF THE INSOLVENT

In the District Court of. the. day of. 19.

In the matter of. an insolvent.

To the Fiscal of the Court.

Whereas the above-named. has been adjudged an insolvent under the Insolvency Ordinance, the estate of the said. is hereby placed under sequestration in your hands, and you are hereby ordered forthwith to lay an attachment on the property of the said. under inventory thereof, and to proceed therein as directed by the said Ordinance, and to return this order with what you have done thereon to this court on or before the. -day of. next.

And for so doing this shall be your sufficient warrant.

A.S.
District Judge.

Form I

THE INSOLVENCY ORDINANCE

ORDER FOR PETITION FOR SEQUESTRATION TO BE PROCEEDED IN, ON A SUBSTITUTED DEBT

In the District Court of. the. day of. 19.

In the matter of. an insolvent.

Upon application made to the court this day, by. of. (attorney-at-law) for. a creditor of the above-named insolvent, and who has proved a debt of sufficient amount to support an adjudication, and the debt of the petitioning creditor having been found by the court to be insufficient to support the adjudication of insolvency against the above-named. it is hereby ordered that the petition for sequestration filed against the said. -on the. day of. 19., be proceeded in, and that the costs of Ac. (*stating such order as to costs of any of the parties concerned as the conn thinks fit*),

A.B.
District Judge.

INSOLVENTS

[Section 30.]

Form K

THE INSOLVENCY ORDINANCE

ORDER ANNULING ADJUDICATION

In the District Court of....., the.....day of.....19.....

In the matter of.

Upon reading the proceedings in the above matter, and upon hearing (the evidence now adduced, if the case be so, and) what was alleged by. and being satisfied that the petitioning creditor's debt and act of insolvency (or specify the particular matter deemed insufficient, as the case may require) upon which the adjudication of insolvency made against the said.-on the.day of. 19... , was grounded, were and are (or, was and is) insufficient to support such adjudication, and no other debt or act of insolvency (or specify the-particular mailer requisite in lieu of that deemed insufficient, as the case may require) sufficient to support such adjudication being proved, it is ordered that the adjudication of insolvency made against' the said.-on the said.day of. 19., be annulled, and the same is hereby annulled accordingly.

A. B.,
District Judge.

[Section 32.]

Form L

THE INSOLVENCY ORDINANCE

SEARCH WARRANT

In the District Court of.....the.....day of.....,19.....

Whereas by evidence upon oath it hath been made to appear to this court, acting in the prosecution of a petition for sequestration filed and now in prosecution against,of., bearing date the of 19 and under which the said has been adjudged insolvent, that there is reason to suspect and believe that property of the said is concealed in the house (or other place, describing it, as the case may be) of one of such house not belonging to the said insolvent: These are therefore, by virtue of the Insolvency Ordinance, to authorize and require you, with necessary and proper assistants, to enter, in the daytime, into the house (or other place, describing it, as the case may be) of the said situate at.aforesaid, and there diligently to search for the said property, and if any property of the said insolvent shall be there found by you on such search, that you seize the same, to be disposed of and dealt with according to the provisions of the said Ordinance.

Given under my hand in the District Court of.....this.....day of..... 19.

A.B.,
District Judge.

To the Fiscal of the Court.
(or T o , if any person is specially appointed by the court.)

[Sections 41
and 42.]

Form M

THE INSOLVENCY ORDINANCE

FORM OF DECLARATION TO BE MADE BY THE INSOLVENT OR THE INSOLVENT'S WIFE

I, A. B; the person adjudged an insolvent under a petition for sequestration of my estate, filed on the. . ;-day of 19., (or I, C. B., the wife of A. B., adjudged an insolvent under, &c.), do solemnly promise and declare that I will make true answer to all such questions as may be proposed to me respecting all the property of the said A. B.. and ail dealings and transactions relating thereto, and will make a full and true disclosure of all that has been done with the said properly, to the best of my knowledge, information, and belief.

(Signed) A. B:
(or C. B; wife of the said A. B.).

Form N

THE INSOLVENCY ORDINANCE

ADMISSION OF DEBT TO THE INSOLVENT

I, the undersigned *J. K.*, of do hereby, in open court, confess that I am indebted to *E. F.* of an insolvent, in the sum of -upon the balance of accounts between myself and the said *E. F.*

(Signed) J. K.

Witness :

A.B.
District Judge.

Form O

THE INSOLVENCY ORDINANCE

ORDER FOR PAYMENT OF DEBT ADMITTED IN COURT
TO BE DUE TO THE ESTATE OF AN INSOLVENT

In the District Court of the day of 19.. - ..

In the matter of *E. F.* an insolvent.

Whereas *J. K.* of in his examination taken the day of 19., and signed by the said *J. K.*, has admitted that he is indebted to the above-named insolvent in the sum of upon the balance of accounts between the said *J. K.* and the said insolvent, it is hereby ordered that the said *J. K.* do pay to the assignees of the estate and effects of the said insolvent, in full discharge of the sum so admitted, the sum of -forthwith (or *if otherwise, stale the lime and manner of payment*), and that the said *J. K.* do also pay to the said assignees the sum of for the costs of and incident to the summons of the said *J. K.* in this behalf.

A.B.
District Judge.

(If the court shall not adjudge the costs of and incident to the summons to be paid by the person summoned, or if the court shall adjudge the assignees to pay to the person summoned his costs out of the estate of the insolvent, alter the form accordingly.)

Form Q

THE INSOLVENCY ORDINANCE

CERTIFICATE OF CONFORMITY

I, District Judge of acting in the prosecution of a petition for sequestration of the estate of as insolvent, and bearing date the- day of 19. do certify that the said. -became insolvent before the date and filing of the said petition within the true intent and meaning of the Insolvency Ordinance and was thereupon adjudged insolvent accordingly ; and I further certify that due notice was given in the Gazette of such petition having been filed and of the adjudication thereon, and that two public sittings for the said insolvent to surrender and conform were duly appointed, the last of which said sittings was appointed to be on the day of last; and I further certify that such two several sittings were had pursuant to such notice, and that upon the said. day of 19., the said insolvent did surrender himself, and did sign such surrender and submit to be examined from time to time upon oath ; and I further certify that the said insolvent did on the day of last finish his examination, and upon such examination made a full disclosure and discovery of his estate and effects, and in all things conformed, and so far as the court can judge there doth not

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appear any reason to question the truth of fulness of such discovery ; and I further certify that on the day of 19. . . . , in the District Court of I held a public sitting for the allowance of this certificate to the said insolvent (whereof and of the purport whereof the notice required in that behalf was duly given), and having regard to the conformity of the said insolvent to the said Ordinance, and to his conduct as a trader (or in relation to his estate) before as well as after his insolvency, I did then and there find the said insolvent entitled to such certificate, and did allow the same ; and I further certify that his insolvency has arisen from unavoidable losses and misfortunes, and that he is entitled to and I do award him this certificate as of the first class ; (or, that his Insolvency has not wholly arisen from unavoidable losses and misfortunes, and that he is entitled to and I do award him this certificate as of the second class ; or, that his insolvency has not arisen from unavoidable losses or misfortunes, and that he is only entitled to and I do only award him this certificate as of the third class).

(If the certificate be allowed with conditions, the same to be inserted here.)

Given under my hand in the District Court of.....this.....day of. 19.

Signed in the presence of.

A.B..
District Judge.

Form R

THE INSOLVENCY ORDINANCE

CERTIFICATE TO ASSIGNEES OR TO CREDITOR TO ENTITLE THEM TO ISSUE WRIT OF EXECUTION

In the District Court of..... the.day of.....19.....

In the matter of..... an insolvent.

I hereby certify that A. B., of..... and C. D., of..... assignees of the estate and effects of the above-named insolvent, are creditors of the said insolvent as such assignees for the sum of Rs..-in trust for the creditors of the said insolvent (or, that E. F; of, is a creditor of the said insolvent for the sum of Rs-), and that the said insolvent is not protected by this court from process against his person.

G.H..
District Judge.

Form S

THE INSOLVENCY ORDINANCE

WARRANT AGAINST PERSON DISOBEYING ANY ORDER OF THE COURT

Whereas by an order of this court bearing date the day of 19. . . . , made for enforcing the purposes and provisions of the Insolvency Ordinance, it was ordered that (as in the order), and whereas it is now proved that after the making of the said order, that is to say, on this day of , 19. . . . , a copy of the said order was duly served on the said personally, and the original order at the same time shown to him, but the said then refused (or neglected) to obey the same, and hath not as yet obeyed the said order:

These are therefore to require you forthwith to take into your custody the body of the said and him safely to convey to the prison at and him there to deliver to the keeper of the said prison, together with this precept, and the keeper of the said prison is hereby required in receive the said into his custody and him safely to keep and detain, without hail, until this court or the Court of Appeal shall make order to the contrary ; and for so doing this shall be your sufficient warrant.

Given under my hand in the District Court of.....the.....day of. i n the year.

A. B.,
District Judge.

To the Fiscal of the Court and to the keeper of the prison at

CHAPTER 245

IMMIGRANTS AND EMIGRANTS

AN ACT TO MAKE PROVISION FOR CONTROLLING THE ENTRY INTO SRI LANKA OF PERSONS OTHER THAN CITIZENS OF SRI LANKA, FOR REGULATING THE DEPARTURE FROM SRI LANKA OF CITIZENS AND PERSONS OTHER THAN CITIZENS OF SRI LANKA, FOR REMOVING FROM SRI LANKA UNDESIRABLE PERSONS WHO ARE NOT CITIZENS OF SRI LANKA, AND FOR OTHER MATTERS INCIDENTAL TO OR CONNECTED WITH THE MATTERS AFORESAID.

[1st November, 1949.]

1. This Act may be cited as the Immigrants and Emigrants Act.

PART I

PRELIMINARY

2. (1) Every person who—

- (a) is a member of the Armed Forces of Sri Lanka; or
- (b) is duly accredited to the Government of Sri Lanka by the Government of any other country; or
- (c) is sent to Sri Lanka on a special mission by the Government of any other country; or
- (d) is any expert, adviser, technician, or official whose salary or principal emolument is not payable by the Government of Sri Lanka and who is brought to Sri Lanka by the Government of Sri Lanka through any Specialized Agency of the United Nations Organization, or under the Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organization (including its Technical Assistance Bureau), or any similar organization approved by the Minister; or

(e) is any trainee from abroad who is sent to Sri Lanka under any of the Technical Co-operation Programmes of the United Nations Organization and its Specialized Agencies or of the Colombo Plan Organization, or of any similar organization approved by the Minister; or

(f) has entered or is under an agreement to enter the service of the Government of Sri Lanka; or

(g) is a member of the official staff or household of any person referred to in any of the foregoing paragraphs (a) to (f); or

(h) is the wife or any dependent child of any person referred to in any of the foregoing paragraphs (a) to (g); or

(i) is a member of the crew of a ship in the territorial waters of Sri Lanka,

shall be exempt from the operation of Parts III, IV, V, VI, and VII of this Act to such extent or subject to such conditions or restrictions as may be specified by order of the Minister.

An order under this subsection may be either a special order in respect of any person or group of persons, or a general order applicable to any class or description of persons, being in either case persons referred to in this subsection.

Acts
Nos. 20 of 1948,
16 of 1955,
68 of 1961.

Short title.

Exemption
from operation
of Act.

(2) In accordance with any regulations made under this Act for the purpose of prescribing—

- (a) the classes or description of persons, other than those specified in subsection (1), to whom exemption may be granted from any of the provisions of this Act; and
- (b) the extent to which or the terms, conditions or restrictions subject to which such exemption may be granted,

the Minister may by order exempt any prescribed class or description of persons or any person belonging to any such prescribed class or description, to the prescribed extent or subject to the prescribed terms, conditions or restrictions:

Provided that in the absence of any such regulations or on the occurrence of any public emergency, the Minister may so exempt any person or class or description of persons from any of the provisions of this Act to such extent or subject to such terms, conditions or restrictions as may appear to him to be necessary in the public interest.

PART II

ADMINISTRATIVE ARRANGEMENTS

Ports of entry and departure,

3. The Minister may, by Order published in the Gazette, declare any place in Sri Lanka to be an approved port of entry or an approved port of departure for the purposes of this Act.

Officers and servants.

4. (1) There may be appointed, for the purposes of this Act, whether by name or by office—

- (a) a fit and proper person to be or to act as the Controller of Immigration and Emigration;
- (b) a fit and proper person to be or to act as the Deputy Controller of Immigration and Emigration;

(c) a fit and proper person or each of two or more such persons to be or to act as an Assistant Controller of Immigration and Emigration;

(d) a fit and proper person or each of two or more such persons to be or to act as an authorized officer.

(2) 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.

5. (1) In the exercise, performance or discharge of the powers, duties or functions conferred, imposed or assigned by or under this Act—

Powers and duties of officers.

(a) the Controller shall be subject to the general or special directions of the Minister;

(b) the Deputy Controller, each Assistant Controller and each authorized officer shall be subject to the general or special directions of the Controller.

(2) The Controller, the Deputy Controller and every Assistant Controller may exercise, perform or discharge any power, duty or function vested in, or imposed or conferred upon, an authorized officer, by or under this Act.

(3) The Secretary to the Ministry or any Assistant Secretary to the Ministry may exercise, perform or discharge any power, duty or function vested in, or imposed or conferred upon, the Controller or an authorized officer, by or under this Act.

6. The Minister may either generally or specially authorize the Secretary to the Ministry or any Assistant Secretary to the Ministry or the Controller to exercise, perform or discharge any power (other than the power conferred by section 2 or section 31 or section 52), duty or function vested in, or imposed or conferred upon, the Minister, by or under this Act,

Authorization by Minister of Controller to act on his behalf.

7. The Controller may either generally or specially authorize the Deputy Controller or any Assistant Controller to exercise, perform or discharge any power, duty or

Authorization by Controller of other officers to act on his behalf.

function vested in, or imposed or conferred upon, the Controller, by or under this Act.

Powers and duties of authorized members of the Forces. [§2. 68 of 1961.]

7A. (1) The President may, for the purposes of this Act, by Order published in the Gazette designate all or any of—

- (a) the members of the army raised and maintained in accordance with the provisions of the Army Act,
- (b) the members of the Sri Lanka Navy raised and maintained in accordance with the provisions of the Navy Act, and
- (c) the members of the Sri Lanka Air Force raised and maintained in accordance with the provisions of the Air Force Act,

as authorized members of the Forces.

(2) The powers and duties conferred and imposed upon authorized members of the Forces by this section shall be exercised and discharged notwithstanding that such powers and duties are not conferred or imposed upon them by the provisions of the Army Act, the Navy Act, or the Air Force Act.

(3) The Minister may, by Order published in the Gazette, specify the area or areas in which the powers and duties under this Act may be exercised and discharged by authorized members of the Forces.

(4) Within the area specified under subsection (3), an authorized member of the Forces shall, in respect of—

- (a) any offence under paragraph (a) of subsection (1) of section 45,
- (b) any offence under subsection (2) of section 45 so far as it relates to paragraph (a) of subsection (1) of that section, and
- (c) any offence under subsection (1) or subsection (2) of section 45A,

be deemed to be a peace officer within the meaning of the Code of Criminal Procedure

Act for the purpose only of exercising any power conferred upon a peace officer by that Act.

(5) An authorized member of the Forces making an arrest without warrant shall without delay hand the person so arrested to the custody of a police officer.

PART III

CONTROL OF ENTRY INTO SRI LANKA OF PERSONS OTHER THAN CITIZENS OF SRI LANKA

8. This Part shall apply to every person seeking entry into or entering Sri Lanka unless— Application of part III

- (a) he is a citizen of Sri Lanka; or
- (b) by virtue of any order under Part 1 for the time being in force, he is exempted from the provisions of this Part.

9. A person to whom this Part applies shall not enter Sri Lanka at any place other than an approved port of entry. Entry to be at approved ports of entry only.

10. A person to whom this Part applies shall not enter Sri Lanka unless he has in his possession— Documents required at the time of entry.

- (a) a valid passport which bears an endorsement in the prescribed form granted to him by an authorized officer under this Part; and
- (b) if so required by regulations made under this Act, a *visa* granted to him under such regulations.

11. (1) No endorsement under this Part shall be granted by an authorized officer to any person unless that person has in his possession— Documents of entry not to be issued to certain persons.

- (a) a passport which is a valid passport; and
- (b) if so required by regulations made under this Act, a *visa* granted or issued to him under such regulations.

(2) Except in such circumstances as may be prescribed, no endorsement or *visa* shall be granted or issued to any person who—

- (a) is, in the opinion of the authority empowered to grant or issue any such document of entry, unable to support himself and his dependants; or
- (b) is a person of unsound mind, or is mentally defective; or
- (c) is certified by a prescribed medical officer to be a person whom, for medical reasons, it is undesirable to admit into Sri Lanka; or
- (d) has been sentenced outside Sri Lanka for an extraditable offence within the meaning of any law which was or is in force in Sri Lanka relating to fugitive persons and their extradition; or
- (e) is a prostitute or procurer or person living on the prostitution of others ; or
- (f) fails to fulfil such other requirements as the Minister may impose in the public interest by special or general instructions issued in that behalf; or
- (g) is the subject of a deportation order in force under this Act; or
- (h) is a stowaway ; or
- (i) is declared by order of the Minister under section 12 to be a prohibited immigrant or a prohibited visitor.

(3) Any endorsement or *visa* granted or issued in contravention of the preceding provisions of this section shall be deemed to be void and of no effect for the purposes of this Act.

Power of Minister to declare persons to be prohibited immigrants or prohibited visitors.

12. The Minister may, by order, declare that any person to whom this Part applies and who—

- (a) is deemed by the Minister, from information received by him, through official or diplomatic

sources, to be an undesirable person for the purposes of admission into Sri Lanka; or

- (b) is shown by evidence which the Minister deems sufficient, to be likely to conduct himself so as to be dangerous to peace and good order in Sri Lanka, or to excite feelings of disaffection to the Government of Sri Lanka, or to intrigue against the authority of the Government of Sri Lanka; or
- (c) has been convicted in any country and has not received a free pardon in respect of an offence for which a sentence of imprisonment has been passed and, by reason of the circumstances connected therewith, is deemed by the Minister to be an undesirable person for admission into Sri Lanka,

shall be a prohibited immigrant or a prohibited visitor for the purposes of this Act.

13. (1) An endorsement under this Part by an authorized officer shall be required of a person to whom this Part applies in every case where, on his arrival by ship at any place in Sri Lanka, such person desires to enter Sri Lanka and to remain therein for any period or purpose whatsoever.

Requirements as to endorsements.

(2) Every endorsement granted by an authorized officer under this Part to any person—

- (a) shall be signed by such officer;
- (b) shall be in the prescribed form; and
- (c) shall, if such person is not the holder of a *visa*, specify the period for which and the terms and conditions subject to which such person may enter and remain in Sri Lanka.

(3) An authorized officer may require as a condition precedent to the grant of an endorsement under this Part to any person that such person shall, or some other person resident in Sri Lanka and approved by the

authorized officer shall on behalf of such person, furnish security, either by deposit of such sum, not exceeding the prescribed sum, as the officer may deem fit or in such other manner as may be prescribed, for the repayment to the Government of any costs and charges that may be incurred in respect of that person. All sums so deposited by way of security shall be disposed of in the prescribed manner.

Requirements as to visa.

14. (1) A *visa* may be granted by the prescribed authority for such period, not exceeding two years, as may be specified in the *visa*.

(2) A *visa* may, with the approval of the Minister, be granted by the prescribed authority for such period, exceeding two years but not exceeding five years, as may be specified in the *visa*.

(3) The period specified in any *visa* may be extended by the prescribed authority from time to time, for such period and subject to such conditions as may be prescribed, upon application made to that authority in that behalf. Where the authority which granted the *visa* obtained, by reason of subsection (2) of this section, the approval of the Minister before making the grant, such authority shall before extending the *visa* obtain in like manner the approval of the Minister.

(4) The fact that a person is in Sri Lanka for the time being shall not prevent or be construed to prevent the grant or issue in his case of a *visa* or endorsement, or the extension in his case of the period specified in such *visa* or endorsement.

Stay in Sri Lanka of persons to whom this Part applies.

15. No person to whom this Part applies and who enters Sri Lanka shall—

(a) if he is not the holder of a *visa*, remain in Sri Lanka after the expiry of the period for which he is authorized to remain in Sri Lanka by the endorsement granted to him at the time of his entry ; or

(b) if he is the holder of any *visa*, remain in Sri Lanka after the expiry of the period for which he is authorized to

remain in Sri Lanka by that *visa* or by virtue of any extension of that *visa* ; or

(c) if his entry into Sri Lanka is in contravention of the provisions of section 9 or section 10, remain in Sri Lanka.

16. A person to whom this Part applies and who enters Sri Lanka shall—

(a) if he is not the holder of a *visa*, comply, so long as he remains in Sri Lanka, with the terms and conditions of the endorsement granted to him at the time of his entry; or

(b) if he is the holder of any such *visa*, comply, so long as he remains in Sri Lanka, with the terms and conditions of the *visa*.

17. Where a deportation order or removal order is made under this Act in respect of any person, any endorsement or *visa* granted or issued to that person shall be deemed to be void and of no effect for the purposes of this Act.

18. (1) (a) A person to whom this Part applies may, if he desires to land at any approved port or to enter Sri Lanka, be examined by an authorized officer or medically examined by a prescribed medical officer.

(b) Every such examination shall be held at the time of the arrival of such person at the port or as soon as may be thereafter.

(c) For the purposes of such examination, any such person may be required by an authorized officer or the prescribed medical officer to disembark and present himself at any specified place ashore.

(d) A person who disembarks and enters a specified place in Sri Lanka for the purposes of compliance with any direction of an authorized officer or the prescribed medical officer as aforesaid, shall not be deemed by reason only of such entry to be guilty of any offence under any of the other provisions of this Act.

Terms and conditions of documents of entry to be complied with.

Documents of entry to be void in certain circumstances.

Examination and medical examination upon arrival.

(2) The master of any ship arriving at any place in Sri Lanka shall detain on board any person to whom this Part applies until such person is inspected or landed for inspection under this section.

Inspection of letters, &c.

19. A person to whom this Part applies shall, on being required so to do by an authorized officer, at the time of his entry into Sri Lanka, make a declaration as to whether or not he is carrying or conveying any letters, written messages, memoranda or any written or printed matter, including plans, photographs and other pictorial representations, and if so required, shall produce to that officer any such letters, messages, memoranda or written or printed matter, and the officer may search any such person and any baggage belonging to him or under his control with a view to ascertaining whether such person is carrying or conveying any such letters, messages, memoranda or written or printed matter, and may examine and detain, for such time as that officer may think proper for the purposes of such examination, any letters, messages, memoranda or written or printed matter produced to him or found on such search.

Detention of persons for examination and inspection.

20. For the purposes of any examination or inspection under the preceding sections, a person who is directed by an authorized officer to disembark and enter any place on shore, may be detained at any place approved in that behalf by the Minister for such length of time as may be necessary for completing such examination or inspection.

DETENTION AND REMOVAL OF
CERTAIN PERSONS

21. (1) The master of any ship arriving at any place in Sri Lanka shall, at the request of an authorized officer, detain on board the ship any person who has been refused an endorsement by that officer, or any person who enters Sri Lanka from that ship in contravention of the provisions of section 10.

(2) Where a person to whom this Part applies is refused an endorsement by an authorized officer or where a person enters

Sri Lanka in contravention of the provisions of section 10, he may be temporarily detained in such manner and in such place as may be specified in any general or special directions of the Minister, if such person cannot for any reason be detained on board the ship by which he travelled to Sri Lanka or that ship has left Sri Lanka.

22. (1) An authorized officer may by notice direct that any person to whom this Part applies and who has been refused an endorsement, or who enters Sri Lanka in contravention of the provisions of section 10, shall be removed from Sri Lanka by the master of the ship by which such person travelled to Sri Lanka or by the owner or the agents of the owner of such ship to the territory of which such person is a national or from which such person embarked for Sri Lanka.

Removal from Sri Lanka of certain persons.

The master of the ship and the owner or the agent of the owner of such ship shall comply with such notice.

(2) The master of any ship who knowingly allows any person to whom this Part applies and who has been refused an endorsement, to enter Sri Lanka in contravention of the provisions of this Act, or who knowingly allows any person to enter Sri Lanka from that ship in contravention of the provisions of section 10, or refuses to receive any such person on board his ship, or neglects to take reasonable measures to keep any such person on board his ship or in some place approved by an authorized officer, shall be guilty of an offence under this Act, and shall on conviction be liable to a fine not exceeding five thousand rupees.

Where the whole or any part of a fine imposed on the master of a ship under this section remains unpaid within seven days from the date of the imposition of the fine, the court which imposed the fine may direct the amount remaining unpaid to be levied by the distress and sale of the ship.

(3) Where proceedings have been instituted in a court against the master of a ship for an offence under subsection (2), clearance outwards of the ship may be refused until the conclusion of such proceedings and until the fine, if any, imposed by the court has been paid.

Detention of certain persons.

(4) The master, the owner and the agent of the owner of any ship from which a person to whom this Part applies and who has been refused an endorsement enters Sri Lanka or from which a person enters Sri Lanka in contravention of the provisions of section 10 shall be jointly and severally liable to pay to the Government all costs and charges incurred by the Government in respect of that person.

(5) The master, the owner and the agent of the owner of any ship shall be jointly and severally liable to pay to the Government all costs and charges incurred by the Government in respect of any transit passenger of that ship who fails to rejoin the ship when the ship leaves Sri Lanka.

Regulations.

23. (1) Regulations may be made for the purposes of this Part in respect of all or any of the following matters :—

- (a) any matter stated or required in this Part to be prescribed ;
- (b) the grant of endorsements under this Part, the form of such endorsements, the terms and conditions subject to which they may be granted (including such terms and conditions as the Minister may deem necessary in the public interest), the cancellation, variation, or amendment of such endorsements or of any terms or conditions specified therein, whether in the absolute discretion of the prescribed authority or in the prescribed circumstances, and the particulars to be entered in such endorsements;
- (c) the prohibition of the entry into Sri Lanka of any person belonging to any such class or description of persons as may be prescribed unless such person has in his possession a *visa*;
- (d) the making of applications for such *visas*, the form of such applications, the documents, including photographs, to be attached to such applications, and the particulars to be entered therein;
- (e) the authority or authorities by whom such *visas* may be granted or issued ;

(f) the grant or issue of such *visas* and the refusal of such *visas*, whether in the absolute discretion of the prescribed authority or in the prescribed circumstances;

(g) the furnishing, as a condition precedent to the grant or issue of such *visas* to any persons, of security, the manner in which such security shall be furnished, whether by deposit of money or by hypothecation of immovable property or otherwise and the forfeiture of the whole or part of such security;

(h) the terms and conditions subject to which such *visas* may be granted or issued (including such terms and conditions as the Minister may deem necessary in the public interest), the cancellation, variation or amendment of such *visas* or of any terms or conditions specified therein, whether in the absolute discretion of the prescribed authority or in the prescribed circumstances;

(i) the form of such *visas* and the particulars to be entered therein;

(j) the imposition, recovery and disposal of fees in respect of the grant or issue of such *visas*, the exemption in the prescribed circumstances of persons from the payment of such fees and the refund of such fees in those circumstances;

(k) the returns to be furnished and the information to be supplied by persons for any of the purposes aforesaid;

(l) all matters incidental to or connected with the matters or subjects referred to in this section.

(2) Regulations may be made for the purpose of the forfeiture of the whole or part of any security furnished for the grant of any *visa* or permit issued before the 6th day of June, 1955, and in force after that

date, and for the purpose of the cancellation or variation of such *visa* or permit in like manner as regulations may be made for those purposes in relation to *visas* issued after the aforesaid date.

Minister may deem necessary in the public interest;

(e) the form of registers to be kept by authorized officers and the particulars to be entered therein;

PART IV

SUPERVISION OF ACTIVITIES OF PERSONS OTHER THAN CITIZENS OF SRI LANKA

Application of part IV

24. This Part shall apply to every person unless—

- (a) he is a citizen of Sri Lanka; or
- (b) by virtue of any order under Part I for the time being in force, he is exempted from the provisions of this Part.

(f) the circumstances in which authorized officers and police officers may exercise in relation to such persons, powers of arrest, detention, and search of premises or person, and any other ancillary matters for which it appears expedient to provide with a view to giving full effect to the order,

(g) all matters incidental to or connected with the matters and subjects referred to in this subsection.

Power to impose restrictions on persons by order.

25. (1) The Minister may, if he deems it expedient in the public interest, by order impose restrictions on the movements or activities, during their stay in Sri Lanka, of persons to whom this Part applies, and provision may be made in the order in respect of all or any of the following matters;—

- (a) the circumstances in which and the purposes for which such persons may be required to furnish returns to authorized officers, the form of such returns and the particulars to be entered therein;
- (b) the information to be supplied by such persons relating to the occurrence of any circumstances affecting in any manner the accuracy of the particulars specified in returns made under the order;
- (c) the compliance by such persons with such provisions as to place of residence, change of residence, travelling or otherwise, as may be made by the order;
- (d) the imposition of such obligations, requirements, conditions or restrictions on the activities or associations of such persons, as the

(2) An order under this section may be either a special order in respect of any person or group of persons, or a general order applicable to any class or description of persons.

26. (1) Every authorized officer shall keep and maintain a register of persons to whom this Part applies for the purposes of this Act. Such officer shall enter in the register, in respect of each person who is required by order made under section 25 to furnish a return to such officer, such particulars relating to such person as are required to be entered in such register,

Registers to be kept by authorized officers.

(2) The authorized officer aforesaid shall, upon his being informed by any person to whom this Part applies of the occurrence of any circumstances affecting in any manner the accuracy of the particulars previously furnished to such officer, make such alterations in the entries in the register relating to such person, as may be necessary for maintaining the accuracy of the register.

PART V

REMOVAL FROM SRI LANKA OF PERSONS OTHER THAN CITIZENS OF SRI LANKA

27. This Part shall apply to every person unless—

Application of part V

- (a) he is a citizen of Sri Lanka; or

(b) by virtue of any order under Part I for the time being in force, he is exempted from the provisions of this Part.

Power of Minister to direct the removal from Sri Lanka of persons other than citizens of Sri Lanka.

28. (1) Where a person to whom this Part applies is convicted of an offence under this Act by reason—

- (a) of his having entered or remained in Sri Lanka in contravention of any provision of Part III or of any regulations made by virtue of the powers conferred by that Part; or
- (b) of his failure to comply with any of the terms, conditions or restrictions imposed upon him by any endorsement or *visa* granted or issued to him; or
- (c) of his failure to comply with any of the terms, conditions or restrictions imposed upon him by any order made under Part I,

the Minister may, by order (in this Act referred to as a "removal order"), direct a prescribed officer to arrest, detain and take on board a ship a person so convicted and may further direct by that order or by any subsequent order that the master of that ship shall remove such person from Sri Lanka.

(2) Where the Minister is satisfied that a person to whom this Part applies—

- (a) enters or remains in Sri Lanka in contravention of any provision of Part III or of any regulation made by virtue of the powers conferred by that Part; or
- (b) has had his *visa* or endorsement cancelled ; or
- (c) has overstayed the period specified in the *visa* or endorsement,

the Minister may by order, direct a prescribed officer to arrest, detain and take on board a ship such person and may further direct by that order, or by any subsequent order that the master of that

ship shall remove from Sri Lanka such person.

(3) An order may be made by the Minister under this section, and any powers conferred by such order may be exercised, in relation to any person, notwithstanding that such person is serving a sentence of imprisonment imposed by a court under this Act or any other law.

(4) Any peace officer may use all such force as may be necessary for the purpose of giving effect to any order made under this section.

(5) Any order made under this section shall be final and shall not be contested in any court.

(6) Where the master of a ship has been directed by any order under this section to remove a person specified in that order from Sri Lanka and that master fails so to do, he shall be guilty of an offence under this Act and shall on conviction be liable to the punishment specified in section 45.

Where the punishment imposed on the master of a ship for the said offence consists of or includes a fine and the whole or part of the fine remains unpaid within seven days from the date of the imposition of the fine, the court which imposed the fine may direct the amount remaining unpaid to be levied by the distress and sale of the ship.

(7) Where proceedings have been instituted in a court against the master of a ship for an offence under subsection (6), clearance outwards of the ship may be refused until the conclusion of such proceedings or until the fine, if any, imposed by the court has been paid.

(8) The provisions of subsection (2) of this section shall apply to the holder of a permanent residence permit or temporary residence permit (whether such permit is in force or not) on the 6th day of June, 1955, in like manner as those provisions apply to a person to whom a *visa* or endorsement is granted, and accordingly an order under that subsection may be made in relation to

such holder. Any other provisions of this Part applicable to an order under subsection (2) shall apply to an order made in relation to such holder.

Money and property of persons removed may be applied in payment of costs and charges.

29. Where a removal order or any order under subsection (2) of section 28 is made in the case of any person, the Minister may, if he thinks fit, apply any money or property of that person in payment of the whole or any part of the costs and charges incurred by the Government in respect of that person.

PART VI

DEPORTATION FROM SRI LANKA OF PERSONS OTHER THAN CITIZENS OF SRI LANKA

Application of Part VI.

30. This Part shall apply to every person unless—

- (a) he is a citizen of Sri Lanka; or
- (b) by virtue of any order under Part I for the time being in force, he is exempted from the provisions of this Part.

Power of Minister to deport from Sri Lanka persons other than citizens of Sri Lanka.

31. (1) The Minister may in any of the following cases make an order (in this Act referred to as a "deportation order") requiring any person to whom this Part applies to leave Sri Lanka and to remain thereafter out of Sri Lanka;—

- (a) where that person is shown, by evidence which the Minister may deem sufficient, to be—
 - (i) a person incapable of supporting himself and his dependants;
 - (ii) a person of unsound mind or a mentally defective person;
 - (iii) a prostitute, procurer or person living on the prostitution of others;
 - (iv) a person whom, for medical reasons, it is undesirable to allow to remain in Sri Lanka;
- (b) where that person has been convicted in Sri Lanka or in any other country and has not received a free pardon in respect of an offence for

which a sentence of imprisonment has been passed and, by reason of the circumstances connected therewith, is deemed by the Minister to be an undesirable person to be allowed to remain in Sri Lanka;

- (c) where that person has been sentenced outside Sri Lanka for an extraditable offence within the meaning of any law which was or is in force in Sri Lanka relating to fugitive persons and their extradition;
- (d) where the Minister deems it to be conducive to the public interest to make a deportation order against that person.

(2) An order made under this section may be made subject to such terms and conditions as the Minister may think proper.

(3) A person with respect to whom a deportation order is made shall leave Sri Lanka in accordance with the order, and shall thereafter so long as the order is in force remain out of Sri Lanka.

(4) A person with respect to whom a deportation order is made may be detained in such manner as may be directed by the Minister, and may be placed on a ship about to leave Sri Lanka.

(5) The master of a ship about to call at any port outside Sri Lanka shall, if so required by the Minister or by an authorized officer, receive a person against whom a deportation order has been made and his dependants, if any, on board the ship, and afford that person and his dependants a passage to that port and proper accommodation and maintenance during the passage.

(6) Any powers conferred by an order made by the Minister under this section may be exercised, in relation to any person, notwithstanding that such person is serving a sentence of imprisonment imposed by a court under this Act, or under any other law.

Money and property of persons deported may be applied in payment of costs and charges.

32. Where a deportation order is made in the case of any person, the Minister may, if he thinks fit, apply any money or property of that person in payment of the whole or any part of the costs and charges incurred by the Government in respect of that person.

PART VII

DEPARTURE OF PERSONS FROM SRI LANKA

Application of Part VII.

33. This Part shall apply to every person unless, by virtue of any order under Part i for the time being in force, that person is exempted from the provisions of this Part.

Persons to leave Sri Lanka from approved ports of departure.

34. No person to whom this Part applies shall leave Sri Lanka from any place other than an approved port of departure.

Passports required for departure from Sri Lanka.

35. No person to whom this Part applies shall-

- (a) if he is a citizen of Sri Lanka, leave Sri Lanka unless he has in his possession a Sri Lanka passport; or
- (b) if he is not a citizen of Sri Lanka, leave Sri Lanka unless he has in his possession a valid passport;

Provided, however, that any person to whom this Part applies and who belongs to any prescribed class or description of persons, shall not be deemed to contravene the preceding provisions of this section if he leaves Sri Lanka under the authority of a certificate in the prescribed form and issued to him by a prescribed officer.

Regulations.

36. (1) For the purpose of controlling the departure from Sri Lanka of persons to whom this Part applies, regulations may be made for or in respect of all or any of the following matters:—

- (a) all matters stated in this Part to be prescribed;
- (b) the authority or authorities by whom Sri Lanka passports are to be issued or renewed;

(c) the making of applications for the issue or renewal of Sri Lanka passports, the form of such applications and the particulars to be entered therein,

(d) the issue, refusal, renewal, cancellation and suspension of such passports, whether in the absolute discretion of the prescribed authority or in the prescribed circumstances;

(e) the terms and conditions to be attached to such passports (including such terms and conditions as the Minister may deem necessary in the public interest);

(f) the form of such passports and the particulars to be entered therein;

(g) the furnishing, as a condition precedent to the issue or renewal of such passports to persons to whom this Part applies and who are citizens of Sri Lanka, of security for the repayment to the Government of any expenses that may be incurred by the Government in connexion with the repatriation of such persons, the manner in which such security shall be furnished, whether by deposit of money or by hypothecation of immovable property or otherwise, the person or persons by whom such security shall be furnished and the disposal of the security so furnished ;

(h) the imposition, recovery and disposal of fees in respect of the issue or renewal of such passports;

(i) the prohibition, regulation and control of the departure from Sri Lanka of persons to whom this Part applies, and who are citizens of Sri Lanka, for the service of any foreign state in any capacity whatsoever; the terms and conditions subject to which such persons may be allowed to depart from Sri Lanka for the purpose aforesaid (including such

terms and conditions as the Minister may deem necessary in the public interest);

- (j) the prohibition of the departure from Sri Lanka of such persons when recruited for employment as labourers outside Sri Lanka, unless the recruitment of such persons has been carried out in accordance with such terms and conditions as may be laid down in the regulations;
- (k) the exemption, either unconditionally or subject to such terms and conditions as may be prescribed, of any person belonging to any such class or description of persons as may be prescribed, from all or any of the provisions of such regulations;
- (l) all matters incidental to or connected with the matters and subjects referred to in this subsection.

(2) For the purposes of this section, "foreign state" includes any person or persons exercising or assuming to exercise the powers of Government in or over any country, colony, province or people beyond the limits of Sri Lanka.

PART VIII

GENERAL

Identification of persons entering and leaving Sri Lanka.

37. (1) Every person entering or leaving Sri Lanka shall furnish to any authorized officer such information as that officer may require for the purpose of ascertaining whether that person is or is not a citizen of Sri Lanka.

(2) The master of any ship arriving at any place in Sri Lanka shall detain on board any passenger in, or member of the crew of, the ship until an authorized officer has examined the passenger or member of the crew for the purpose of ascertaining whether he is or is not a citizen of Sri Lanka.

Identification of persons. [§ 3, 68 of 1961.]

38. For purposes of this Act it shall be lawful for any person authorized by the Controller, or for a police officer not below

the rank of a sergeant, or for an authorized member of the Forces not below the rank of a corporal or leading seaman, to take all such steps as may be reasonably necessary for photographing, measuring, fingerprinting and otherwise identifying—

- (a) any person who is not a citizen of Sri Lanka.
- (b) any person who is suspected or alleged to have committed an offence under this Act.

39. Every authorized officer is hereby empowered to enter or board any ship, and to detain and examine any person arriving in or leaving Sri Lanka, and to require the production of any documents by such person.

Power of authorized officers to enter and board ships.

40. The Controller, the Deputy Controller, every Assistant Controller and every authorized officer shall be deemed to be a peace officer within the meaning of the Code of Criminal Procedure Act for the purpose of exercising any power conferred upon a peace officer by that Act.

Controller, &c. deemed to be peace officers.

41. Any person who is detained in the exercise of any powers conferred by or under this Act shall, while so detained, be deemed to be in legal custody.

Persons detained deemed to be in legal custody.

42. (1) The master of every ship entering or leaving any port in Sri Lanka shall, upon demand made by any authorized officer, furnish to such officer a return containing the prescribed particulars relating to—

Returns as to passengers and members of crews of ships.

- (a) the passengers embarking on or disembarking from that ship at that port; or
- (b) the members of the crew of that ship.

(2) Each passenger in, and each member of the crew of, a ship shall furnish to the master of that ship any information in his possession which is required of him by such master for the purpose of furnishing a return under subsection (1).

(3) The owner, or agent of the owner, of every ship which departs from any port in Sri Lanka shall, if the Controller so requires, furnish to the Controller a list, in such form as may be prescribed for the purpose, of all the members of the crew and of all the passengers who left Sri Lanka in such ship.

Expenses of administration of Act.

43. All expenses incurred in the administration of this Act shall, except in so far as they are defrayed as provided by or under this Act, be payable out of moneys provided by Parliament for the purpose.

Proof of instruments, made or issued by Minister.

44. (1) Every document purporting to be an order, direction, instruction, permit or other instrument, made or issued by the Minister in pursuance of any provision contained in, or having effect under, this Act, and to be signed by him or on his behalf, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by him.

(2) Prima facie evidence of any such instrument as aforesaid may in any legal proceedings be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister.

Offences.

45. (1) Any person who—

(a) enters or remains in Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder;

[§4, 68 of 1961.]

(b) leaves Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder;

(c) in reply or in relation to the Minister, or any authorized officer, or other person lawfully acting in the execution of the provisions of this Act or of any order or regulation made thereunder, makes or causes to be made any false return, false statement or false representation ;

(d) forges, alters or tampers with any passport, whether issued in

Sri Lanka or elsewhere, or any *visa* or endorsement thereon;

(e) forges, alters or tampers with any certificate;

(f) without lawful authority uses or has in his possession any forged, altered or irregular passport, or any passport with any forged, altered or irregular *visa* or endorsement;

(g) without lawful authority uses or has in his possession any forged, altered or irregular certificate;

(h) obstructs or impedes any person in the exercise of his powers and duties under this Act or under any regulation or order made thereunder; or

(i) otherwise contravenes or fails to comply with any provision of this Act or of any regulation or order made thereunder,

shall be guilty of an offence under this Act and shall on conviction be liable to a fine of not less than two hundred rupees and of not more than five thousand rupees or to imprisonment of either description for a term of not less than three months and of not more than five years, or to both such fine and imprisonment.

(2) Any person who attempts to commit, or does any act preparatory to the commission of, or aids or abets the commission of, an offence under subsection (1) shall be guilty of an offence under this Act and shall on conviction be liable to the same punishment as if he had been guilty of an offence and been convicted under subsection (1).

(3) No prosecution for an offence under this Act shall be instituted except by the Controller or by a police officer of a rank not below that of Assistant Superintendent or with the written sanction of the Controller or such police officer. [§4,68 of 1961.]

(4) The judgment of any court (against which no appeal has been preferred or which has been confirmed in appeal)

convicting any person of the offence of entering or remaining in Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder shall, notwithstanding anything to the contrary in the Evidence Ordinance, be admissible, in any prosecution for any other offence under this Act which may be instituted against the person so convicted or any other person, as proof of such conviction; and thereupon it shall be presumed that the person so convicted entered or remained in Sri Lanka in contravention of such provision, unless the accused in such prosecution proves that the person so convicted—

- (a) is a person to whom Part III of this Act does not apply; or
- (b) entered Sri Lanka, or remained in Sri Lanka, as the case may be, in conformity with such provision; or
- (c) was in Sri Lanka prior to the appointed date and did not thereafter leave Sri Lanka; or
- (d) was born in Sri Lanka on or after the appointed date and did not thereafter leave Sri Lanka.

45A. (1) Any person who—

- (a) brings any other person into Sri Lanka by any means whatsoever, knowing that the entry into Sri Lanka of that other person is or would be in contravention of any provision of this Act or of any order or regulation made thereunder;
- (b) conceals or harbours any other person in any place whatsoever, or transports any other person or causes any other person to be transported by any means whatsoever, knowing that such other person has entered Sri Lanka or is remaining in Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder; or

(c) employs any other person, knowing that such other person has entered Sri Lanka or is remaining in Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder,

shall be guilty of an offence under this Act and shall on conviction be liable to rigorous imprisonment for a term of not less than two years and of not more than five years.

(2) Any person who—

- (a) attempts to commit or aids or abets the commission of an offence under subsection (1), or
- (b) does any act preparatory to the commission of an offence under paragraph (a) or paragraph (b) of subsection (1),

shall be guilty of an offence under this Act and shall on conviction be liable to rigorous imprisonment for a term of not less than two years and of not more than five years.

(3) Where a person is charged with an offence under subsection (1) or subsection (2), it shall be presumed that he acted knowing that the entry of that other person into Sri Lanka was or would have been, or that the other person had entered Sri Lanka or was remaining in Sri Lanka, as the case may be, in contravention of a provision of this Act or of any order or regulation made thereunder, and the burden of rebutting the presumption of such knowledge shall lie upon the person so charged.

(4) For the purpose of every prosecution under paragraph (c) of subsection (1) of this section, a person alleged to have entered Sri Lanka or to be remaining in Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder,—

- (a) who is in the service of a body of persons shall—
 - (i) where the body of persons is a body corporate, be deemed to

Offences of bringing persons into Sri Lanka in contravention of Act, &c. [§5. 68 of 1961.]

be employed by the manager, secretary and every director of that body corporate, and

(ii) where the body of persons is a firm, be deemed to be employed by every partner of the firm,

unless such manager, secretary, director or partner, as the case may be, proves, having regard to the nature of his functions and to all the circumstances, that such person was employed without his knowledge ; and

(b) who is in the service of a business registered under the Business Names Ordinance, shall, as regards every individual, every firm and every body corporate registered under that Ordinance in respect of that business, be deemed to be employed by such individual, every partner of such firm and every manager, secretary and director of such body corporate,

unless such individual, partner, manager, secretary or director, as the case may be, proves, having regard to the nature of his functions and all the circumstances, that such person was employed without his knowledge.

Presumption with regard to certain certificates. [§5.68 of 1961.]

45B. If in any prosecution for any offence under this Act there is produced a certificate issued by a police officer of a rank not below that of an Assistant Superintendent to the effect that he believes any person named in the certificate to be a person who has entered or remained in Sri Lanka in contravention of any provision of this Act or of any order or regulation made thereunder, it shall be presumed that the person so named entered or remained in Sri Lanka in contravention of such provision, unless it is proved by the accused that the person so named—

(a) is a person to whom Part III of this Act does not apply ; or

(b) entered Sri Lanka, or remained in Sri Lanka, as the case may be, in conformity with such provision; or

(c) was in Sri Lanka prior to the appointed date and did not thereafter leave Sri Lanka; or

(d) was born in Sri Lanka on or after the appointed date and did not thereafter leave Sri Lanka.

46. All offences under this Act shall be cognizable offences for the purpose of the application of the provisions of the Code of Criminal Procedure Act, notwithstanding anything contained in the First Schedule of that Act, and shall be triable summarily by a Magistrate.

Offences to be cognizable and to be triable by Magistrate.

It shall be lawful for such Magistrate to impose any punishment prescribed by this Act, notwithstanding that such punishment exceeds the limits of his ordinary powers of jurisdiction.

47. (1) Notwithstanding anything in any other law—

Certain offences to be non-bailable. [§6, 68 of 1961.]

(a) every offence under paragraph (a) of subsection (1) of section 45,

(b) every offence under subsection (2) of section 45 in so far as it relates to paragraph (a) of subsection (1) of that section,

(c) every offence under paragraph (a) or paragraph (b) of subsection (1) of section 45A,

(d) every offence under paragraph (a) of subsection (2) of section 45A in so far as it relates to paragraph (a) or paragraph (b) of subsection (1) of that section, and

(e) every offence under paragraph (b) of subsection (2) of section 45A,

shall be non-bailable and no person accused of such an offence shall in any circumstances be admitted to bail.

(2) Notwithstanding anything in any other law—

(a) every offence under paragraph (c) of subsection (1) of section 45A, and

(b) every offence under paragraph (a) of subsection (2) of section 45A, in so far as it relates to paragraph (c) of subsection (1) of that section,

shall be non-bailable.

Detention of persons suspected of or charged with commission of offence under section 45 (1) (a). [§7,68 of 1961.]

48. Where any person is suspected of the commission of an offence under paragraph (a) of subsection (1) of section 45, it shall be lawful, notwithstanding anything in any other written law, for the Controller or any police officer of a rank not below that of an Assistant Superintendent, to authorize in writing the detention of that person in any place of detention approved by the Minister for the purpose of this section, until that person has established his innocence or an order is made against that person by the Minister in terms of section 28 (2);

Provided that if such person remains in custody at the expiry of a period of two weeks from the date on which he was first taken into custody, he shall be produced forthwith before a Magistrate who shall make such order as he deems appropriate.

Burden of proof.

49. Where, with reference to any proceedings under this Act or under any regulation, order, direction, instructions or other instrument made or issued thereunder or with reference to anything done or proposed to be done under this Act or any such regulation, order, direction, instructions or other instrument, it is alleged by any person—

(a) that he is not a citizen of Sri Lanka; or

(b) that he belongs to any particular class or description of persons who are not citizens of Sri Lanka; or

(c) that he is a citizen of Sri Lanka; or

(d) that he belongs to any particular class or description of persons who are citizens of Sri Lanka; or

(e) that he is a national of any particular country.

the burden of proving that fact shall, notwithstanding anything in the Evidence Ordinance, lie upon that person.

50. It shall be lawful for any police officer irrespective of rank, or any authorized member of the Forces not below the rank of a corporal or leading seaman, to search any ship (not being an aircraft) in the territorial waters of Sri Lanka, and to arrest and take into custody any person on board such ship who is suspected of the commission of any offence under section 45 (1) (a), section 45 (2) in so far as it relates to section 45 (1) (a), or section 45A.

Power to search any ship for the purpose of arrest. [§8,68 of 1961.]

51. (1) Where any police officer irrespective of rank, or any authorized member of the Forces not below the rank of a corporal or leading seaman or any other officer authorized by regulation to exercise the powers conferred by this section has reason to believe that any vehicle, vessel or other means of transport has been used in, or in connexion with, the commission of any offence referred to in paragraph (a) or paragraph (b) of subsection (1) of section 45A, he may seize and detain such vehicle, vessel or means of transport, together with any equipment and accessories thereof.

Seizure and detention by police, authorized members of the Forces or authorized officers, of vehicles, &c., suspected of being used in the commission of offences under section 45A (1) (a) or section 45A (1) (b). [§9, 68 of 1961.]

(2) Any vehicle, vessel or other means of transport or equipment or accessories seized under subsection (1) shall, as soon as possible, be produced before or made available for inspection by a Magistrate's Court of competent jurisdiction by the officer making the seizure or, where such officer is an authorized member of the Forces, by any police officer, and the court shall thereupon make such order as it may deem fit relating to the custody of the things so seized pending their disposal under subsection (3).

[§9, 68 of 1961.]

(3) Any vehicle, vessel or other means of transport or equipment or accessories seized under subsection (1) from the possession of any person—

(a) shall be returned to that person forthwith upon the expiration of six

[§9,68 of 1961.]

weeks after the seizure, unless a prosecution for the alleged offence is instituted before the end of that period; or

(b) shall be returned to that person forthwith after the final determination of the prosecution, unless duly declared to be forfeited to the State or ordered to be destroyed under subsection (4).

[§9,68 of 1961.]

(4) Where any vehicle, vessel or other means of transport or equipment or accessories, produced before or made available for inspection by a Magistrate's Court under subsection (2), is proved to have been used in, or in connexion with, the commission of an offence under paragraph (a) or paragraph (b) of subsection (1) of section 45A, such court shall make order for the forfeiture to the State or for the destruction of such vehicle, vessel or other means of transport or equipment or accessories.

Proceedings under the Act to have priority in court. [§10, 68 of 1961.]

51A. (1) The proceedings in any court in respect of an offence alleged to have been committed by any person under this Act shall have priority over all other business of that court, except when circumstances render it necessary for such other business to be disposed of earlier.

(2) Where the trial of a person accused of an offence under this Act cannot be concluded on the day of commencement, such trial shall be continued on the working day immediately following, except where circumstances render such continuation impracticable or render it necessary for other business to be disposed of on the working day immediately following.

Evidence, in connexion with certain offences, of a person about to leave the Island. [610,68 of 1961.]

51B. (1) Where any person is accused of an offence under section 45 (1) (a), or section 45 (2) in so far as it relates to section 45 (1) (a), or section 45A, any other person who is about to leave the Island may, if he so desires, make a sworn or affirmed statement in connexion with the offence before a Justice of the Peace, or a police officer not below the rank of an Assistant

Superintendent of Police, in the presence of the person accused of the offence.

(2) The Justice of the Peace or the police officer before whom the statement is made under subsection (1) shall—

- (a) record such statement,
- (b) read over such statement in the presence of the accused to the person making the statement,
- (c) explain the statement to the accused,
- (d) afford the accused full opportunity of asking any questions relevant to the statement from the person making the statement,
- (e) record such questions, together with the answers given by the person making the statement,
- (f) secure the signature of the person making the statement to the record of the statement, and
- (g) certify, if such be the case, that the requirements of this section have been complied with.

(3) Any Justice of the Peace, or police officer not below the rank of an Assistant Superintendent of Police, is hereby empowered and required—

- (a) to administer an oath or affirmation, in manner authorized for witnesses under the Oaths Ordinance, to any person desiring to make a statement in accordance with this section, and
- (b) thereafter to take proceedings under the provisions of subsection (2).

(4) A statement purporting to be certified under this section may, notwithstanding the provisions of any other law, be produced in court and given in evidence against any person accused of any offence under section 45 (1) (a), or section 45 (2) in so far as it relates to section 45 (1) (a), or section 45A, and shall be prima facie evidence of the facts therein stated,

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Regulations.

52. (1) The Minister may make all such 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 in respect of all or any of the following matters :—

- (a) all matters stated in this Act to be prescribed ;
- (b) all matters in respect of which regulations are required or authorized to be made under this Act;
- (c) the classes or description of persons, other than those specified in section 2 (I), to whom exemption may be granted from any of the provisions of this Act;
- (d) the extent to which and the terms, conditions or restrictions subject to which such exemption may be granted (including such terms, conditions or restrictions as the Minister may deem necessary in the public interest in any special circumstances);
- (e) the examination of any person, and the production, inspection and stamping of any document, for the purposes of this Act; and
- (f) the taking of ringer-prints from any person or from persons of any class or description specified in the regulations for the purposes of this Act.

(3) No regulation shall have effect until that regulation has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) Upon the publication in the Gazette of the notification of the approval of any regulation, that regulation shall be as valid and effectual as if it were herein enacted.

53. Nothing in this Act or in any regulation, order, direction, instructions or other instrument made or issued under this Act shall be deemed or construed to prohibit or restrict in any manner whatsoever the entry into or departure from any place in Sri Lanka of any person on a Journey by ship from or to, as the case may be, any other place in Sri Lanka if that ship has not called or will not call at any place outside Sri Lanka in the course of his journey by that ship.

Act not to apply to journeys between places in Sri Lanka.

54. (1) In this Act, unless the context otherwise requires— Interpretation.

"appointed date" means the 1st day of November, 1949;

" Assistant Controller " means any person appointed under section 4 to be or to act as an Assistant Controller of Immigration and Emigration;

" authorized officer" means any person appointed under section 4 to be or to act as an authorized officer;

" citizen of Sri Lanka " means a citizen of Sri Lanka under any law for the time being in force ;

" Controller " means the person appointed under section 4 to be or to act as the Controller of Immigration and Emigration;

" costs and charges ", in relation to any person who is not a citizen of Sri Lanka, means any money expended out of public funds for securing or facilitating the departure therefrom of such person, and includes—

(i) any money expended out of public funds for his relief, maintenance, care or treatment; and

(ii) the expenses of any such relief, maintenance, care or treatment in any hospital, alms-house or other institution for the relief of sick or destitute persons which is maintained out of public funds or by

- any charitable institution to the support of which the Government contributes;
- " dependant " means a person who is wholly and directly dependent for maintenance and support upon any other person and is related to such other person as being—
- (a) his wife ; or
 - (b) his or his wife's parent or grandparent; or
 - (c) his or his wife's daughter, granddaughter, sister or niece, who is either unmarried or a widow or divorced ; or
 - (d) his or his wife's son, grandson, brother or nephew, who is under the age of twenty-one years or being over that age, is permanently disabled and incapable of supporting himself;
- " Deputy Controller " means the person appointed under section 4 to be or to act as the Deputy Controller of Immigration and Emigration;
- " endorsement " means an endorsement granted under Part III of this Act;
- " holder", in relation to any *visa*, means the person to whom such *visa* is granted or issued;
- "master ", in relation to a ship, means the person, for the time being, in charge, command or control of that ship;
- " member of the crew ", in relation to a ship, means any person employed in the working or service of that ship;
- " passenger " means any person travelling or seeking to travel on board a ship who is not a member of the crew of the ship;
- " peace officer " has the same meaning as in the Code of Criminal Procedure Act ;
- " ship" means anything made for the conveyance by water of human beings or of property;
- " Sri Lanka " includes the territorial waters of Sri Lanka; [§ 11,68 of 1961.]
- " territorial waters of Sri Lanka " means the territorial waters as determined by the Maritime Zones Law;
- " valid passport ", in relation to any person who is not a citizen of Sri Lanka, means a passport or other document of identity having the characteristics of a passport—
- (a) which was issued to him by or on behalf of any Government recognized by the Government of Sri Lanka;
 - (b) which contains a personal description sufficient to identify him and to which is attached his photograph; and
 - (c) which is for the time being in force;
- " *visa* " means a *visa* granted under regulations made under this Act.
- (2) Any reference in this Act or in any regulation, order, direction, instructions or other instrument made or issued thereunder to a ship or a port shall be deemed to include a reference to an aircraft or an aerodrome.
- (3) (a) A person who arrives at any aerodrome in Sri Lanka on board any aircraft shall not be deemed, for the purposes of this Act, to enter Sri Lanka or to be brought into Sri Lanka until that person leaves the aerodrome otherwise than by that aircraft. [§ 11,68 of 1961.]
- (b) (i) A person who enters the territorial waters of Sri Lanka on board any ship (not being an aircraft) as a passenger in transit, shall not be deemed, for the purposes of this Act, to enter Sri Lanka or to be brought into Sri Lanka until that person leaves the ship.
 - (ii) " Passtiigei m transit" means a passenger who is travelling from a country other than Sri Lanka to a country other than Sri Lanka on board the same ship.

(iii) In any prosecution for an offence under this Act, the burden of proving that a person is a passenger in transit shall lie upon the person so asserting it.

(4) Where by virtue of any order under Part I for the time being in force, any person is exempted from some only of the provisions of any of the foregoing Parts III to VII, each of the provisions of such Part from which he is not exempted shall, in relation to that person, have effect as if for the expression "person to whom this Part applies" there were substituted the expression "person to whom this section applies".

Construction of Act.

55. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Customs Ordinance, the Quarantine and Prevention of Diseases Ordinance or of any other written law relating to the entry of persons into, and departure of persons from, Sri Lanka;

Provided, however, that in the event of any conflict or inconsistency between the provisions of this Act and of any such

Ordinance or other written law, the provisions of this Act shall prevail.

***57.** (1) Notwithstanding the repeal. Savings, &c. rescission, or amendment of any provision of written law relating to permanent residence permits and temporary residence permits, any such permit issued before the 6th day of June, 1955, and in force on the day immediately preceding that date shall continue in force after that date for the duration of such permit and shall thereafter cease to have effect; and the provisions of written law applicable to such permits before such date shall apply to such permits after that date during the period of the validity of such permits in like manner as they were applicable before that date.

(2) Subsection (3) of section 6 of the Interpretation Ordinance shall apply in the case of any amendment which has the effect of omitting any provisions of written law relating to permanent residence permits and temporary residence permits in like manner as that subsection applies in the case of any repeal.

* Section 56 is omitted, as it contains only transitional provisions.

CHAPTER 347

IMPORTS AND EXPORTS (CONTROL)

Act
No. 1 of 1969.

AN ACT TO PROVIDE FOR THE CONTROL OF THE IMPORTATION AND EXPORTATION OF GOODS, FOR THE REGULATION OF THE STANDARDS OF EXPORTABLE GOODS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[8th August, 1969.]

Short title.

1. This Act may be cited as the Imports and Exports (Control) Act.

into, or export from, Sri Lanka any goods except under the authority, or otherwise than in accordance with the conditions, of a licence issued in that behalf under this Act by the Controller.

Appointment of officers and servants.

2. There may be appointed, by name or by office, for the purposes of this Act, a Controller of Imports and Exports and such Deputies and Assistants to him and such other officers and servants as may be necessary.

(2) The importation into, or the exportation from, Sri Lanka after the date of commencement of this Act by any person of any goods without a licence issued in that behalf under this Act shall be deemed not to be a contravention of the provisions of subsection (1) if such importation or exportation was authorized by a licence issued under any written law for the time being in force-

Powers and duties of officers.

3. (1) Every Deputy or Assistant Controller of Imports and Exports shall, in the exercise of his powers, the performance of his duties and the discharge of his functions, be subject to the general direction and control of the Controller of Imports and Exports.

(3) Regulations may be made exempting any specified class or classes of persons or goods from the provisions of subsection (1).

(2) Every Deputy or Assistant Controller of Imports and Exports may, subject to the general direction and control of the Controller of Imports and Exports, exercise, perform or discharge all such powers, duties or functions vested in, imposed upon or assigned to the Controller of Imports and Exports by or under this Act as may be delegated to such Deputy or Assistant by the Controller of Imports and Exports.

5. (1) Every application for a licence shall— Application for licences.

(3) A Deputy or an Assistant Controller of Imports and Exports exercising, performing or discharging any power, duty or function of the Controller of Imports and Exports under this Act shall be deemed for all purposes to have been delegated to exercise, perform or discharge that power, duty or function until the contrary is proved.

(a) be made to the Controller in such one of the prescribed forms as is appropriate to the case,

(b) state the particulars which that form requires to be stated, and

(c) be signed by the applicant.

(2) The Controller may direct any applicant for a licence 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 such direction, the Controller may refuse to issue the licence to the applicant.

Control of the import and export of goods.

4. (1) Subject to the provisions of subsection (2) and of any regulations made under subsection (3), no person shall import

Licence fee.

6. Where a fee is prescribed for the issue of a licence, such licence shall not be issued by the Controller except upon the payment of such fee.

(3) A notice under this section to any person shall be given to him by registered letter addressed to him and despatched through the post.

Issue of licences.

7. (1) The Controller shall have full power and discretion to make a decision either to issue or to refuse to issue a licence to an applicant therefor.

(4) A notice given to any person in the manner provided in subsection (3) 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.

(2) The Controller may issue a licence subject to such conditions as he may deem necessary. Such conditions shall be set out in the licence.

11. (1) An applicant for a licence who is aggrieved by the decision of the Controller refusing to issue such licence and any person who is aggrieved by the order of the Controller amending, suspending or cancelling a licence issued to such person may appeal in writing from that decision or order to the Minister within a period of fourteen days reckoned from the date of the service of notice of that decision or order on him. Appeals.

(3) Subject as hereafter provided in this Act, the decision of the Controller to issue or to refuse to issue a licence to an applicant therefor shall be final and conclusive and shall not be called in question in any court or tribunal whether by way of writ or otherwise,

Authority granted by licences.

8. A licence granted to any person shall, subject to the conditions set out in the licence and to the provisions of this Act, authorize such person to import into, or export from, Sri Lanka goods of such value and in such quantity or quantities as may be specified in the licence.

(2) The decision of the Minister 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 or tribunal whether by way of writ or otherwise.

Power to amend, suspend or cancel licences.

9. (1) It shall be deemed to be a condition of every licence that the Controller may, at any time by order in writing, amend, suspend or cancel such licence and accordingly any of the powers conferred on the Controller by the preceding provisions of this subsection may be exercised by the Controller at any time in respect of a licence.

12. (1) The Controller may, by written notice, direct any person to whom a licence to import goods into Sri Lanka is issued to furnish before a date specified in the notice such information as the Controller may by the notice require in respect of the warehousing of such goods. Power of Controller to call for information and inspect documents.

(2) An order of the Controller amending, suspending or cancelling a licence shall, subject to any decision on an appeal under this Act from the order of the Controller, be final and conclusive and shall not be called in question in any court or tribunal whether by way of writ or otherwise.

(2) After the exportation of any goods the Controller may, by written notice, direct the exporter of such goods to produce within such time as is specified in the notice satisfactory evidence that the goods have reached the ultimate destination specified in the licence issued to such exporter or in any bill of lading or other shipping document relating to such goods.

Communication of refusal to issue a licence to applicant and of amendment or cancellation of a licence to the holder thereof.

10. (1) Where the Controller decides to refuse to issue a licence under this Act, he shall cause notice of the decision to be given to the applicant for the licence.

(3) For the purposes of this Act, the Controller may, by written notice, direct any person, including the manager of any bank in Sri Lanka—

(2) Where the Controller makes an order amending, suspending or cancelling a licence, he shall cause notice of such order to be given to the holder of such licence.

(a) to furnish to such officer, and within such time, as may be specified in the direction, information regarding

such matters relevant to the purposes of this Act as may be so specified, and

(b) to cause to be produced for inspection by such officer, within such time, and at such place as may be so specified, such books, accounts and other documents relevant to the purposes of this Act as may be so specified, including certified copies of entries in those books, accounts or other documents.

(4) A notice under this section may be served—

(a) on any individual by delivering it to him or by leaving it at, or sending it by post to, his residence;

(b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by post to, the office of the firm;

(c) on any company by leaving it at, or sending it by post to, the registered office of the company.

Verification of information.

13. (1) A person who furnishes any information under this Act shall verify it by a declaration that the statements contained therein are true and accurate.

(2) Every declaration made under this Act shall be free from stamp duty.

Prohibition or regulation of certain imports and exports.

14. The Minister may by regulation—

(a) prohibit or regulate the importation or exportation of goods from or to countries specified in the regulation, or

(b) prohibit the importation or exportation of goods (whether from or to any country whatsoever or any country specified in the regulation) by any person, other than the Government of Sri Lanka and such corporate or unincorporate bodies of persons, if any, as may be specified in the regulation.

15. It shall be deemed to be a condition of every licence that the Principal Collector of Customs shall have the power to confiscate on behalf of the Republic any goods or part thereof imported into, or intended to be exported from, Sri Lanka—

(a) in contravention of the provisions of this Act or of the provisions of any regulation made under this Act, or

(b) otherwise than in conformity with any terms or conditions stated in the licence relating to importation or exportation, as the case may be, of such goods,

and accordingly the power conferred on the Principal Collector of Customs by the preceding provisions of this section may be exercised by him in respect of any such goods.

16. Any person who—

Offences.

(a) acts in contravention of any provision of this Act or of any regulation made thereunder, or

(b) acts in contravention of, or fails to comply with the condition of, a licence issued under this Act, or

(c) fails to comply with any direction given by the Controller in the exercise of his powers under section 12 of this Act, or

(d) furnishes for the purposes of this Act, any information which is, or any document the contents of which are, or any part of the contents of which is, to his knowledge untrue or incorrect,

shall be guilty of an offence under this Act.

17. Every person who is guilty of an offence under this Act shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Punishment for offences.

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Offences by bodies of persons.

18. Where an offence under this Act is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every director and officer of that body corporate, or
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence :

Provided that a director or an officer of such body corporate, or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

No prosecution without the sanction of the Controller.

19. No prosecution for an offence under this Act shall be instituted except by, or with the written sanction of, the Controller.

Regulations.

20. (1) The Minister may make regulations for the purposes 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) all matters stated or required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made; and
- (b) the regulation of the standards of exportable goods of any specified class or description.

(3) 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.

(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 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 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.

21. The provisions of this Act shall be read and construed as one with the Customs Ordinance, and for the purpose of the application of the Customs Ordinance—

Application of customs Ordinance.

- (a) goods 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 that Ordinance;
- (b) goods the exportation of which is prohibited by this Act or by regulation made under this Act shall be deemed to be goods the exportation of which is prohibited by that Ordinance;
- (c) goods the importation of which is restricted by this Act or by regulation made under this Act shall be deemed to be goods the importation of which is restricted by that Ordinance ; and
- (d) goods the exportation of which is restricted by this Act or by regulation made under this Act shall be deemed to be goods the exportation of which is restricted by that Ordinance.

22. In this Act unless the context interpretation. otherwise requires—

" Controller" means the Controller of Imports and Exports appointed

under this Act, and includes a Deputy Controller and an Assistant Controller specially authorized by the Controller either generally or for some specific purpose to act on behalf of the Controller;

"export ", with its grammatical variations and cognate expressions, when used in relation to any goods, means the carrying and taking out of Sri Lanka, or causing to be carried or taken out of Sri Lanka, whether by sea or by air of such goods ;

" goods" includes any article, animal, substance or property whatsoever;

" import ", with its grammatical variations and cognate expressions, when used in relation to any goods, means the importing or bringing into Sri Lanka, or causing to be imported or brought into Sri Lanka, whether by sea or by air of such goods;

" prescribed" means prescribed by regulation made under this Act.

CHAPTER 330

INSURANCE CORPORATION

Acts

Nos. 2 of 1961,
25 of 1962,
11 of 1963,
18 of 1965,
6 of 1966,
22 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN INSURANCE CORPORATION FOR CARRYING ON THE BUSINESS OF LIFE INSURANCE AND CARRYING ON IN ADDITION INSURANCE BUSINESS OF EVERY DESCRIPTION; TO TERMINATE THE TRANSACTION OF NEW BUSINESS BY OTHER INSURERS CARRYING ON LIFE INSURANCE BUSINESS; TO PROVIDE THAT SUCH INSURERS SHALL MAINTAIN IN SRI LANKA SUFFICIENT ASSETS TO DISCHARGE THEIR OBLIGATIONS UNDER POLICIES OF INSURANCE NOT PAID OR MATURED; TO PROVIDE FOR CERTAIN MATTERS IN RELATION TO INSURERS CARRYING ON THE BUSINESS OF INSURANCE OTHER THAN LIFE INSURANCE; TO PROVIDE FOR THE TRANSFER TO THE CORPORATION OF THE INSURANCE BUSINESS CARRIED ON BY THE CO-OPERATIVE WHOLESALE ESTABLISHMENT; AND TO MAKE PROVISIONS FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[Sections 2, 7, 8, 17, 18, 30, 31 and 34 — 10th January, 1961]

[Other provisions of the Act — 1st January, 1962]

Short title.

1. This Act may be cited as the Insurance Corporation Act.

(4) Every member of the Corporation shall, subject to the provisions of subsections (5) and (6), hold office for a period of five years from the date of his appointment.

PART I

ESTABLISHMENT OF THE INSURANCE CORPORATION OF CEYLON

(5) A member of the Corporation may resign from the Corporation by letter addressed to the Minister.

Establishment of the Insurance Corporation of Ceylon.

2. (1) There shall be established a Corporation which shall be called the Insurance Corporation of Ceylon (hereinafter referred to as the "Corporation"). The Corporation shall consist of five members appointed by the Minister, one of whom shall be designated Chairman of the Corporation.

(6) Any member of the Corporation may be removed from office by the Minister if such member is absent from meetings of the Corporation for a period exceeding three months for any cause which does not appear to the Minister to be reasonable, or if the Minister considers that it is expedient to remove such person from office.

(2) A person shall be disqualified for being appointed or being a member of the Corporation if he is a Member of Parliament.

(7) Where any member of the Corporation resigns or is removed from office or dies, the Minister may appoint another person to be a member in place of the member who resigns or is removed from office or dies, and the person so appointed shall hold office during the unexpired period of the term of office of the member last mentioned.

(3) A member of the Corporation who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation shall disclose the nature of his interests at a meeting of the Corporation and such disclosure shall be recorded in the minutes of the Corporation and the member shall not take part in any deliberation or decision of the Corporation with respect to that contract.

(8) Where any member of the Corporation becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in the place of such member.

(9) All or any of the members of the Corporation may be paid such remuneration from the Fund of the Corporation as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

(10) No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of a member thereof.

(11) The quorum for any meeting of the Corporation shall be three members of the Corporation, and, subject as aforesaid, the Corporation may regulate its own procedure.

Corporation to be a body corporate.

3. The Corporation shall, by the name given to it by section 2, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

Seal of the Corporation.

4. (1) The seal of the Corporation shall be in the custody of such person as the Corporation may from time to time determine.

(2) The seal of the Corporation may be altered in such manner as may be determined by the Corporation.

(3) The seal of the Corporation shall not be affixed to any document except by the authority of the Corporation and in the presence of two members of the Corporation who shall sign the document in token of their presence.

Functions of the Corporation.

5. The Corporation shall carry on insurance business of every description in Sri Lanka or outside Sri Lanka, including—

(1) the business of insuring—

(a) any property of the State or of any corporation the entirety of whose capital is provided by the Government, or any property held in trust by any public officer in his official capacity, against the loss of, or any damage to, such property caused by fire, accident, theft, flood or any malicious act or any other cause, or

(b) the Head of any Government Department or any such corporation as aforesaid, —

(i) against any loss caused to such Head in his official capacity or to such corporation by the default or fraud of any employee of the State in such Department or any employee of such corporation or any person transacting any business or performing any work for such Head in his official capacity or for such corporation; or

(ii) in respect of any liability which may be incurred by the State or such corporation in consequence of the death of, or any bodily injury to, any employee of the State in such Department or any employee of the corporation, or any other person, or in consequence of the loss of, or any damage to, any property in the custody of any employee of the State in such Department in his official capacity or in the custody of such corporation; or

(c) the Secretary to the Treasury, or the Head of any Government Department, on behalf of the Government against any loss which may be incurred by the Government as a result of the failure of any public officer employed in that Department to repay the whole or any part of any sum of money lent to him by the Government; or

(d) the Secretary to the Treasury, or the Director-General of Education, on behalf of the Government against any loss which may be incurred by the Government as a result of the failure of any teacher in any Assisted school to repay the whole or any part of any sum of money lent to him by the Government; or

- (e) any employee of any such corporation as aforesaid in respect of third-party risks in conformity with the requirements of Part VI of the Motor Traffic Act; or
 - (f) the Head of any Department in respect of any risks arising out of any work undertaken by a contractor in pursuance of a contract entered into between the Head of the Department and such contractor; and
- (2) such other business of insurance as may be authorized by a resolution of Parliament.

Powers of the Corporation,

6. The Corporation may exercise all or any of the following powers :—

- (a) to acquire, hold and dispose of any movable or immovable property;
- (b) to reinsure with any insurer any liability arising out of any policy of insurance issued by the Corporation;
- (c) to accept reinsurance of any liability arising out of any policy of insurance issued by any other insurer carrying on insurance business of any kind that is carried on by the Corporation;
- (d) to transact such other business as may seem to the Corporation to be capable of being conveniently carried on in connexion with the insurance business carried on by the Corporation and to be conducive, directly or indirectly, to render profitable the latter business;
- (e) to invest the moneys of the Corporation in such manner as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance and to take all such steps as may be necessary or expedient for the protection or realization of any investment including the management of any property offered as security for an investment;

- (f) to advance or lend money to holders of policies of insurance on the security of such policies;
- (g) to transfer the whole or any part of the business of life insurance carried on outside Sri Lanka to any other person if in the interests of the Corporation it is expedient so to do;
- (h) to borrow money for the purposes of the Corporation in such manner and upon such security as the Corporation may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance, determine ;
- (i) to delegate, subject to the general or special direction of the Corporation, to any member or officer of the Corporation any such function of the Corporation as the Corporation may consider necessary so to delegate for the efficient transaction of business;
- (j) to establish and maintain a provident fund for persons employed by the Corporation and to make contributions to such fund;
- (k) to enter into and perform all such contracts as may be necessary for the exercise of the general functions and powers of the Corporation; and
- (l) to do all other things, which in the opinion of the Corporation are necessary, to facilitate the proper carrying on of its business.

7. (1) The Corporation shall, subject to the provisions of subsection (3), have the 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:

Appointment of officers, servants and agents of the Corporation.

Provided that the Corporation shall not, without the approval of the Minister, dismiss any such officer or servant of the Corporation as is appointed to the staff of the Corporation in accordance with the provisions of subsection (5).

(2) The officers and servants of the Corporation shall be remunerated at such rates as the Corporation may determine.

(3) In the appointment of officers and servants, preference shall be given by the Corporation to persons who have been employed under insurers and who have lost their employment by reason of retrenchment effected by the insurers in consequence of their not being able to transact any business of insurance.

[§50,11 of 1963.]

(4) The Corporation may appoint any person, who has been employed in the capacity of agent or canvasser under any insurer carrying on the business of life insurance, as an agent of the Corporation for the purpose of procuring new life insurance business and for servicing such business. Every person so appointed by the Corporation shall be entitled only to commission at such rates as the Corporation may determine.

(5) At the request of the Corporation 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 Corporation with like consent, or be permanently employed in such staff.

(6) Where any officer in the public service is temporarily appointed to the staff of the Corporation, subsection (2) of section 26 of the Government-Sponsored Corporations Act shall *mutatis mutandis* apply to and in relation to him.

(7) Where any officer in the public service is permanently appointed to the staff of the Corporation, subsection (3) of section 26 of the Government-Sponsored Corporations Act shall *mutatis mutandis* apply to and in relation to him.

8. In the exercise of its powers and the performance of its duties under this Act, the Corporation shall be subject to and act in accordance with such general or special directions as the Minister may issue from time to time.

Minister's directions to the Corporation.

9. With effect from the appointed date, all the assets, liabilities and contracts of the Co-operative Insurance Department shall be transferred to the Corporation and upon such transfer—

Transfer to the Corporation of the assets, liabilities and contracts of the Co-operative Insurance Department.

- (a) such assets shall vest in and be deemed to be the assets of the Corporation;
- (b) such liabilities shall be deemed to be the liabilities of the Corporation; and
- (c) such contracts shall be deemed to be the contracts of the Corporation and all subsisting rights and obligations of the Co-operative Insurance Department under such contracts shall be deemed to be the rights and obligations of the Corporation.

PART II

PROVISION RELATING TO INSURANCE BUSINESS CARRIED ON BY INSURERS OTHER THAN THE CORPORATION

10. (1) Notwithstanding anything to the contrary in any other written law no person other than the Corporation or a subsidiary corporation or an independent corporation shall be authorized to transact new business of any class of insurance whatsoever and to issue policies of insurance, or renew any policy of general insurance in Sri Lanka.

Corporation or a subsidiary corporation or an independent corporation to be insurers authorized to transact insurance business. [§ 42, 22 of 1979.]

(2) Every policy of insurance issued or every policy of general insurance renewed on or after the first day of January 1964, by any insurer other than the Corporation or a subsidiary corporation or an independent corporation, shall be deemed to be invalid and accordingly shall be of no force or effect in law:

Provided, however, that the Minister may, by Order published in the Gazette, exempt any enterprise with which the Greater Colombo Economic Commission has entered into an agreement under section 17 of the Greater Colombo Economic Commission Law from all or any of the provisions of this Act.

(3) In this section "enterprise" has the same meaning as in the Greater Colombo Economic Commission Law.

PART III

PROVISIONS RELATING TO FINANCES AND ACCOUNTS OF THE CORPORATION

Insurers carrying on life insurance business may transfer to the Corporation such business if the Corporation is satisfied after an investigation of the financial condition of the insurer's business that the assets of the business are more than, or equal to, the liabilities.

*14. (1) Where any insurer who is carrying on life insurance business is of the opinion that, by reason of his inability to transact any new business of life insurance on or after the appointed date, it is beneficial to him to transfer such business to the Corporation, he may make an application in writing in that behalf to the Corporation.

(2) Upon an application being made by any insurer under subsection (1), the Corporation shall cause an investigation into the financial condition of such insurer's life insurance business, including a valuation of the assets and liabilities appertaining to such business, to be made by an actuary. The expenses of such investigation shall be defrayed by such insurer.

The actuary shall, on completion of the investigation, submit his report to the Corporation and such report shall contain a detailed statement of the assets and liabilities appertaining to the life insurance business of the insurer together with a statement whether the assets are more than, equal to, or less than, the liabilities.

(3) If the report of the actuary reveals that the assets appertaining to the life insurance business of the insurer are more than, or equal to, the liabilities, then, the Corporation may direct the insurer by notice in writing to transfer all the assets referred to in the statement of the actuary and the policies of life insurance under which liabilities have not been discharged on the date of such notice to the Corporation. Upon such transfer the Corporation shall notify in writing the holder of each such policy that the rights and obligations of the insurer under such policy have been transferred by the insurer to the Corporation and such rights and obligations shall be exercised and discharged by the Corporation as if such policy had been issued by the Corporation.

+17. (1) The initial capital of the Corporation shall be twenty million rupees. Capital of the Corporation. [§ 50, 11 of 1963.]

(2) The amount of the initial capital of the Corporation shall be paid to the Corporation out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may, in consultation with the Minister, determine.

(3) The capital of the Corporation may be increased from time to time by such amount as may be determined by the Corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

18. (1) The Corporation shall have its own Fund. The Fund of the Corporation.

(2) There shall be paid into the Fund of the Corporation—

- (a) the sum paid to the Corporation under section 17,
- (b) all sums of money transferred to the Corporation under section 9 or section 14,
- (c) all sums received by the Corporation as premiums in respect of the policies issued by the Corporation or transferred to the Corporation under this Act, and
- (d) all sums of money received by the Corporation in the exercise of its powers, functions and duties under this Act.

(3) There shall be paid out of the Fund of the Corporation—

- (a) all sums of money required for the discharge of the liabilities of the Corporation under the policies of insurance issued by the Corporation or transferred to the Corporation under this Act, and

* Sections 11 to 13 are repealed by Act No. 25 of 1962
 f Section 15 is repealed by Act No. 11 of 1963.
 Section 16 is repealed by Act No. 25 of 1962.

(b) all sums of money required to defray any expenditure incurred by the Corporation in the carrying on of its business or in the exercise of its powers, functions and duties under this Act.

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

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

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

Accounts of the Corporation.

19. (1) The Corporation shall cause its accounts to be kept in such form and in such manner as may be prescribed.

(2) The books and the accounts of the Corporation shall be kept at the head office of the Corporation.

Accounts and balance sheet for each year.

20. The Corporation shall cause its books to be balanced on the thirty-first day of December in each year and shall, as soon as may be thereafter, cause to be prepared separate accounts in respect of each of the following, namely, life insurance business, fire insurance business, marine insurance business, general accident insurance business and any other class of insurance business, and a profit and loss account and a balance sheet containing a summary of the assets and liabilities of the Corporation made up to date aforesaid. The aforesaid accounts and the balance sheet shall be signed by the officer responsible for the preparation of such accounts and balance sheet.

22. (1) The Auditor-General shall examine the accounts of the Corporation and furnish a report—
The Auditor-General's report. [§ 3, 3 of 1966.]

(a) stating whether he has or has not obtained all the information and explanations required by him;

(b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Corporation; and

(c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Corporation.

[§50,11 of 1963.]

Audit of accounts- [§2,6 of 1966.]

21. (1) The Corporation shall have its accounts audited each year by an auditor appointed by the Auditor-General. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any qualified auditor or auditors who shall act under his direction and control.

(2) The Auditor-General shall transmit his report to the Corporation.

(2) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Corporation, the Auditor-General shall be paid from the Fund of the Corporation such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Any remuneration received from the Corporation by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

23. The Corporation shall, on receipt of the auditor's report in each year, transmit such report together with the profit and loss account and the balance sheet to which the report relates, and a statement by the Corporation of its activities during the financial year to which such report relates, and of the activities (if any) which are likely to be undertaken by the Corporation in the next financial year, to the Minister who shall cause copies thereof to be laid before Parliament before the end of the year next following the year to which such report and accounts relate.
Annual accounts with auditor's report and a report of the annual activities of the Corporation to be transmitted to the Minister.

Actuarial investigation into the financial condition of the life insurance business of the Corporation to be made once at least in every five years.

24. The Corporation shall, once at least in every five years, cause an investigation to be made by an actuary or actuaries into the financial condition of the life insurance business of the Corporation including a valuation of the liabilities of the Corporation relating to its life insurance business. The Corporation shall transmit the report of the actuary or actuaries to the Minister who shall cause copies thereof to be laid before Parliament.

Acquisition Act for the Corporation shall be paid by the Corporation.

+31. (I) No person carrying on the business of insurance shall terminate the services of any member on the staff relating to the insurance business of such person without the approval in writing of the Commissioner of Labour. Provisions relating to discontinuance of the services of persons employed in insurance business.

Allocation or reservation of a certain percentage of the surplus to holders of policies of life insurance.

25. If as a result of any investigation made under section 24 there is a surplus, the Corporation shall allocate to, or reserve for, the holder of life insurance policies issued, or deemed to be issued, by the Corporation a sum not less than ninety-five *per centum* of such surplus.

(2) The services of a member on the staff of the insurance business of any person shall not be terminated after the Commissioner of Labour has given his approval to such termination except in accordance with such terms and conditions, including payment by the employer of gratuity or compensation for loss of service, as may be prescribed.

Application of the profits.

[§ 50, 11 of 1963.]

26. The net annual profits of the Corporation for each financial year in respect of its general insurance business, and the balance five *per centum* of the surplus referred to in section 25, may be applied to such purposes as may be determined by the Corporation with the approval of the Minister, and any such profits which are not so applied shall be credited to a general reserve fund maintained by the Corporation.

(3) Where any payment of gratuity or compensation is not made by an employer, the person entitled to such gratuity or compensation shall have the right to proceed by action instituted in a court of competent jurisdiction against—

- (a) if such employer is an individual, all assets of such individual, or
- (b) if such employer is a body corporate, all assets of each director of that body corporate, or
- (c) if such employer is a firm, all assets of each partner of that firm,

Receipts on behalf of the Corporation.

*28. A receipt signed by two members of the Corporation or by an officer expressly authorized by the Corporation to give receipts shall be an effectual discharge of moneys paid to the Corporation.

for the recovery of such gratuity or compensation,

PART IV

GENERAL

Acquisition of immovable property under the Land Acquisition Act for the Corporation.

29. (1) Where any immovable property is required to be acquired for the purpose of the business of the Corporation and the Minister, by Order published in the Gazette approves of the proposed acquisition, that property shall be deemed to be required for a public purpose and may accordingly be acquired compulsorily under the Land Acquisition Act and be transferred to the Corporation.

(4) In this section, " Commissioner of Labour " incudes a Deputy Commissioner of Labour or an Assistant Commissioner of Labour.

32. (1) The Minister may by regulation made under this Act provide for the application to the Corporation, with or without any modification, of any provision of the Companies Ordinance. ^ Application of company law to the Corporation.

(2) Any sum payable for the acquisition of any immovable property under the Land

(2) The provisions of the Companies Ordinance, f other than the provisions of that Ordinance which are made applicable to the

* Section 27 is repealed by Act No. 18 of 1965.
 f Section 30 is repealed by Act No. 25 of 1962.
 t Repealed and replaced by the Companies Act, No. 17 of 1982.

Corporation by regulations made under this Act, shall not apply to the Corporation.

Power of the Minister to direct an inquiry to be held into the working of the Corporation.

33. (1) 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.

(2) Where such an inquiry as is referred to in subsection (1) is held, any member of the Corporation or 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.

Liabilities of the Corporation, including bonuses declared in the case of life insurance policies, guaranteed by the Government. [§50,11 of 1963.]
Employment of certain persons in the Corporation. [§50, 11 of 1963.]

33A. All liabilities of the Corporation arising out of policies of insurance issued by or taken over by the Corporation, including in the case of life insurance policies the bonuses declared and payable by the Corporation, shall be guaranteed by *the* Government of Sri Lanka.

33B. The Minister shall take steps to offer employment in the Corporation to persons who have been employed under insurers in Ceylon on July 31, 1963, and who have lost their employment due to retrenchment effected by such insurers by reason of such insurers not being able to transact any new business of general insurance on and after January 1, 1964.

Regulations.

34. (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 required by this Act to be prescribed or in respect of any matter for which regulations are authorized by this Act to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or 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.

35. Any person who—

Offences.

(a) contravenes any provisions of this Act or of any regulation made thereunder, or

(b) furnishes for the purposes of this Act any information which is, or any document the contents of which are, or any part of the contents of which is, to his knowledge untrue or incorrect,

shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable—

(a) in the case of the first offence, 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, and

(b) in the case of the second or any subsequent offence to imprisonment of either description for a term not exceeding six months,

and shall in addition be liable to a fine not exceeding five hundred rupees for each day on which the offence is committed after conviction, and all sums recovered by way of fine shall be paid into the Fund of the Corporation and such sums may be utilized by the Corporation, with the approval of the Minister, to pay—

(a) holders of policies of life insurance, the liabilities under which have not been discharged; and

(b) employees of insurers who are carrying on the business of life insurance and who have not complied with the terms and conditions prescribed under subsection (2) of section 31,

in such manner as may be prescribed.

Liability of agent, manager or other employee.

36. Where an act or omission which constitutes an offence under this Act has in fact been committed or made by the agent, manager or other employee of the person who is liable under this Act for the offence, then the agent, manager or other employee shall be liable to be proceeded against for the offence in the same manner as if he were that person, and either together with that person, or before or after the conviction of that person, and shall be liable to the like punishment as if he were that person.

(iii) with the object of obtaining insurance business, employs a representative or maintains a place of business in Sri Lanka;

(b) any body corporate carrying on the business of insurance and being incorporated under any law for the time being in force in Sri Lanka;

Offences by bodies of persons.

37. Where an offence under this Act is committed by a body of persons, then—

(a) if that body of persons is a body corporate, every director and officer of that body corporate, and

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence.

" general insurance " means any class of insurance business other than life insurance business;

" life insurance business " means the business of entering into or maintaining contracts of insurance on human lives, such contracts including contracts whereby the payment of money is assured on death or on the happening of any contingency dependent on human life, and contracts which are subject to payment of premiums for a term dependent on human life and such contracts being deemed to include—

(a) contracts for the granting of disability and double or triple indemnity accident and sickness benefits if so specified in such contracts,

(b) contracts for the grant of annuities dependent on human life, and

(c) contracts relating to capital redemption business;

" prescribed " means prescribed by regulation; and

" subsidiary corporation " means a subsidiary corporation established under section 2 of the Insurance (Special Provisions) Act. [§ 43,22 of 1979-]

Interpretation.

***39.** In this Act, unless the context otherwise requires,—

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

" Corporation " means the Insurance Corporation of Ceylon established under this Act,

independent corporation" means an independent corporation established under section 3 of the Insurance (Special Provisions) Act, 1979;

insurer " means—

(a) an individual or unincorporated body of individuals or body corporate incorporated under the law of any country other than Sri Lanka, who or which carries on insurance business and who or which—

(i) carries on that business in Sri Lanka, or

(ii) has his or its principal place of business or his or its domicile in Sri Lanka, or

40. The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and in any case of conflict or inconsistency between the provisions of this Act and such other law, the provisions of this Act shall prevail.

Act to prevail in case of conflict with other written law.

[§ 43,22 of 1979.]

* Section 38 is omitted, as it is an amending provision.

CHAPTER 207

INDUSTRIAL DEVELOPMENT

Aci
No. 36 of 1969.

AN ACT TO PROVIDE FOR THE ENCOURAGEMENT, PROMOTION AND DEVELOPMENT OF INDUSTRIES IN SRI LANKA; TO ESTABLISH A PUBLIC AUTHORITY KNOWN AS THE INDUSTRIAL DEVELOPMENT BOARD OF CEYLON; TO SET UP AN INDUSTRIAL ADVISORY COUNCIL AND INDUSTRIAL PANELS; TO PROVIDE FOR THE ESTABLISHMENT OF AN INDUSTRIAL DEVELOPMENT FUND, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[29th January, 1970]

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| Short title. | 1. This Act may be cited as the Industrial Development Act. | 4. (1) The Minister may establish Industrial Panels for any class or group of industries or for any prescribed matters connected with the development of industries | Establishment of Industrial Panels and their function |
| Establishment of the Industrial Development Board of Ceylon. &c. | 2. For the purposes set out in this Act, there shall be established in accordance with the succeeding provisions of this Act—
<i>(a)</i> an Industrial Advisory Council.
<i>(b)</i> such number of Industrial Panels as the Minister may determine,
<i>(c)</i> a fund called the Industrial Development Fund, and
<i>(d)</i> a board called the Industrial Development Board of Ceylon, hereinafter referred to as the " Board ". | (2) Each Industrial Panel, hereinafter referred to as the "panel", shall consist of Chairman and such other members as may be appointed by the Minister. The functions and duties of the Panel shall be prescribed by regulation.

5. The expenses of the administration of the Industrial Panels (including the remuneration of members of the Panels) shall be borne by the Board | Expenses of administration of Industrial panels |

PART I

ESTABLISHMENT OF AN INDUSTRIAL ADVISORY COUNCIL AND INDUSTRIAL PANELS

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| Industrial Advisory Council and its functions. | 3. (1) There shall be a Council of persons which shall be called "The Industrial Advisory Council, hereinafter referred to as " the Council ", to advise the Minister on matters connected with the promotion and development of industries in Sri Lanka,

(2) The Council shall consist of a Chairman and such other members not exceeding twenty in number, appointed by the Minister. Subject to the provisions of this Act, the functions and duties of the Council shall be prescribed by regulation, |
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PART II

ESTABLISHMENT AND ADMINISTRATION OF THE INDUSTRIAL DEVELOPMENT FUND

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|--|---------------------------------|
| 6. There shall be established with the General Treasury a fund called the Industrial Development Fund, hereinafter referred to as the " Fund", for the encouragement, promotion and development of industries in Sri Lanka. | The industrial Development Fund |
| 7. There shall be paid into the Fund—
<i>(a)</i> the proceeds of the industrial development cess levied under section 12;
<i>(b)</i> the proceeds of licence fees on the importation of specified goods in the manner set out in section 9 (1); | Payments into the Fund. |

- (c) the proceeds of the business turnover tax in respect of specified classes of business in the manner set out in section 9 (2) ;
- (b) all such sums of money as may from time to time be voted by Parliament for the purposes of the Fund ;
- (e) all moneys received as donations under section 8 ; and
- (f) all such sums of money as are required to be paid into the Fund under this Act or any other written law.

Donations to the Fund.

8. (1) The Secretary to the Treasury may receive and credit to the Fund any donations made by any person to the Fund.

(2) Where a person making a donation under subsection (1) specifies the purpose for which such donation is to be used, such donation shall be used only for such purpose.

Mode of payment of fees and taxes to the Fund, referred to in section 7.

9. (1) Where the Minister, with the concurrence of the Minister in charge of the subject of Finance, specifies, for the purposes of section 7, any description of goods for the importation of which a licence fee is payable under regulations made under the Imports and Exports (Control) Act, the Controller of Imports and Exports shall credit the proceeds of the import control fees collected in respect of such goods to the Fund.

(2) Where the Minister, with the concurrence of the Minister in charge of the subject of Finance, specifies, for the purposes of section 7, any class or description of business, the business turnover tax collected in respect of such class or description of business by the Commissioner-General of Inland Revenue shall be credited to the Fund.

(3) In this section—

" Controller of Imports and Exports " means the Controller of Imports and Exports appointed under the Imports and Exports (Control) Act ;

" business turnover tax " has the meaning assigned to it in the Business Turnover Tax Act ;

" Commissioner-General of Inland

Revenue " means the Commissioner-General of Inland Revenue within the meaning of that expression as defined in section 163 of the Inland Revenue Act (No. 28 of 1979).

(4) Regulations may be made in regard to all matters necessary for the effective collection and crediting to the Fund of the fees and taxes referred to in section 7.

10. (1) The Fund shall be under the control and administration of the Deputy Secretary to the Treasury Administration of the Fund.

(2) The Deputy Secretary to the Treasury shall, as soon as possible after the end of each calendar year, prepare a report on the administration of the Fund.

(3) The Deputy Secretary to the Treasury shall cause to be maintained a full and appropriate account of the Fund in respect of each calendar year.

(4) The accounts of the Fund for each calendar year shall be audited by or under the direction of the Auditor-General.

(5) A report on the administration of the Fund (together with the report of the Auditor-General on the accounts of the Fund) shall be placed by the Minister before Parliament.

11. The Deputy Secretary to the Treasury shall pay out of the Fund— Payments out of the Fund.

(a) to the Board such sums of money as the Minister may, in consultation with the Minister in charge of the subject of Finance, from time to time determine ; and

(b) to any other institution or body of persons (whether corporate or unincorporate), such sums of money as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, from time to time determine as being necessary for the promotion and development of industries in Sri Lanka.

12. (1) For the purposes of this Act there shall be imposed, levied and paid, a cess, called the industrial development cess, in respect of any industry or industries, in Industrial development cess

such manner and of such amount as may from time to time be determined by resolution of Parliament. The proceeds of such cess shall be credited to the Fund.

(2) Any resolution passed by Parliament under subsection (1) may be rescinded or amended from time to time by Parliament.

(3) Regulations may be made in respect of all matters necessary for the effective levy and collection of the industrial development cess, and its payment into the Fund.

PART III

INDUSTRIAL DEVELOPMENT BOARD OF CEYLON

ITS OBJECTS AND CONSTITUTION

Industrial Development Board of Ceylon.

13. There shall be established a Board which shall be called the Industrial Development Board of Ceylon.

Board to be body corporate.

14. The Board shall, by the name assigned to it by section 13, be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in that name.

Objects of the Board.

15. The objects of the Board shall be :—

- (a) to assist in the encouragement, promotion and development of industries in Sri Lanka ;
- (b) to assist in the proper co-ordination and in the inter-related growth of all industrial undertakings in the private and public sectors of the economy of the country ;
- (c) to foster industrial research with the object of utilizing the natural resources of Sri Lanka, improving the technical processes and methods used in industries and developing appropriate technologies and equipment for local industries, and discovering processes and methods for the better utilization of waste products ;
- (d) to foster the export of local industrial products to overseas markets ;

(e) to assist in such measures in the field of international trade and regional co-operation as are necessary or conducive to industrial development ;

(f) to provide for services and facilities of every description required by or in connexion with any industrial undertaking or industrial establishment in Sri Lanka, including the provision of capital, credit, marketing, managerial, technical facilities and legal advice :

Provided that in regard to the provision of capital grants such service shall be limited to establishments or undertakings whose capital investment does not exceed two hundred thousand rupees ;

(g) to advise on matters relating to the promotion and development of industries in Sri Lanka; and

(b) to take all such measures as may be necessary for, or conducive to, the attainment of the objects specified in this section.

16. For the purpose of fulfilling the objects of the Board, the Board may exercise, discharge and perform the powers, functions and duties conferred or imposed on the Board by or under this Act or any other written law.

Board to exercise its powers to fulfil its objects.

17. (1) The Board shall consist of nine members of whom—

Constitution of the Board-

- (a) six members shall be appointed by the Minister ;
- (b) one member shall be appointed by the Minister in consultation with the Minister in charge of the subject of Planning ;
- (c) one member, being an officer of the General Treasury, shall be appointed by the Minister in consultation with the Minister in charge of the subject of Finance ; and

(d) one member shall be appointed by the Minister in consultation with the Minister in charge of the subject of Trade.

(2) The Minister shall appoint one of the members of the Board to be the Chairman of the Board.

Disqualification.

18. A Member of Parliament shall not be qualified to be a member of the Board.

Terms of office of members.

19. Every member shall hold office for a period of three years, unless he vacates, or is removed from, office earlier.

Appointment of acting members.

20. If any member is temporarily unable to discharge the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may, subject to the requirements of section 17, appoint some other person to act as member in his place.

Resignation and removal of members,

21. (1) A member may resign office by letter addressed to the Minister.

(2) The Minister may, if he thinks it expedient to do so, remove a member from office.

Eligibility of members for reappointment.

22. A member who vacates office by effluxion of time shall be eligible for reappointment.

Quorum for meeting of the Board.

23. The quorum for any meeting of the Board shall be five.

Procedure at meetings of the Board.

24. Subject to the other provisions of this Act, the Board may regulate its procedure in regard to the meetings of the Board and the transaction of business at such meetings.

Vacancy among members not to invalidate acts of the Board.

25. Any act or proceeding of the Board shall not be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the appointment of any of its members.

Remuneration of members of the Board.

26. The members of the Board shall be remunerated in such manner and at such rates as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

27. (1) The common seal of the Board shall be in the custody of such person as the Board may decide from time to time. Seal of the Board.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seal of the Board shall not be affixed to any instrument or document except in the presence of two members of the Board, both of whom shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments or documents to which the seal of the Board is affixed.

28. (1) In the exercise, discharge and performance of its powers, functions and duties, the Board shall be subject to, and act in accordance with, such general or special directions as the Minister may from time to time issue. Minister's directions the Board.

(2) The Minister shall, in issuing directions under subsection (1) with regard to any matter affecting the functions assigned to any other Minister, act in consultation with that Minister.

29. All members of the Board shall be deemed to be public servants within the meaning and for the purposes of the Penal Code. Members of the Board deemed to be public servants.

30. (1) The Board may delegate to any member of the Board or to any employee of the Board any of its powers or duties. Delegation of duties, functions and powers by the Board.

(2) Every delegate appointed under subsection (1) shall exercise or perform the power or duty delegated to him subject to the general or special directions of the Board.

PART IV

DUTIES AND POWERS OF THE BOARD

31. It shall be the duty of the Board— Duties of the Board.

(a) to render as far as possible, such services as are contemplated in

the objects of the Board for the benefit of—

- (i) the Government or any Department of the Government, or
- (ii) any industry which is, or is to be carried on, in Sri Lanka, or
- (iii) any Government-sponsored Corporation* ; or
- (iv) any agency of the Government, or
- (v) any local authority ;

- (b) to take all such measures as may be necessary for the fulfilment of its objects ;
- (c) to submit to the Minister, together with the views of the Board, the reports and recommendations of the Industrial Panels set up under this Act ; and
- (d) either on its own motion or at the request of the Minister, to advise him on all matters relating to the promotion and development of industries.

- (a) to engage in, or co-operate with, local institutions or bodies of persons or foreign institutions or governments, in the display or distribution of industrial products manufactured in Sri Lanka ;
- (c) subject to the proviso of paragraph (l) of section 15, to assist financially or otherwise any local authority, State-sponsored Corporation* or Government Department or any person or body of persons (whether corporate or unincorporate), in the purchase of industrial machinery or raw materials, or in the provision of any other facilities or in the doing of any act or thing necessary for or conducive to the attainment of the objects of the Board ;
- (d) to train, or assist financially the training of, persons to do work which is wholly or mainly connected with the attainment of the objects of the Board ;
- (e) to participate in the business of any industrial undertaking or activities related to industrial development in such manner as the Minister may determine ;
- (f) to levy fees or other charges for services performed, or facilities or equipment provided, by the Board ;
- (g) to acquire, hold, take or give on lease, mortgage or hire, pledge or sell or otherwise dispose of, any movable or immovable property ;
- (h) to employ such officers and servants as may be necessary for carrying out the objects of the Board ;
- (i) to provide financial assistance, welfare and recreational facilities, houses, hostels and other like accommodation for persons employed by the Board ;
- (j) to construct, manufacture, purchase, maintain and repair anything required for the purposes of the objects of the Board ;

No duty of the Board to be enforceable in court.

32. Nothing in section 31 shall be construed as imposing on the Board, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court or tribunal to which the Board would not otherwise be subject.

Powers of the Board.

33. (1) The Board shall have the power to do all such acts and take all such steps as may be necessary for or conducive to the attainment of its objects.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board shall have the power—

- (a) to establish, maintain and carry on industrial estates in Sri Lanka ;

* These designations, as they appear in this enactment, are reproduced without any change, as the reason for the distinction is not understood.

- (k) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Board, all such contracts or agreements as may be necessary for the attainment of the objects of the Board ;
- (l) subject to the provisions of this Act, to make rules in relation to its officers and servants, including their appointments, promotions, remuneration, disciplinary control, conduct and grant of leave to them ;
- (m) subject to the provisions of this Act, to make rules in respect of the administration of the affairs of the Board ; and
- (n) to do all other acts which, in the opinion of the Board, are necessary to facilitate the proper carrying out of its objects or the performance of its duties.

PART V

FINANCE AND ACCOUNTS OF THE BOARD

Board to utilize its moneys

34. The moneys of the Board may be utilized by the Board for the purpose of carrying out its objects or in the exercise, discharge or performance of its powers, functions and duties under this Act or any other written law.

Accounts of the Board.

35. The Board shall, in respect of each financial year, cause proper accounts of its income and expenditure and of all its other transactions to be kept and shall prepare an annual statement of accounts and statistics relating to its business, in such form and containing such particulars as the Minister may determine.

Financial year of the Board.

36. The financial year of the Board shall be as determined by the Board.

Audit of account of the Board.

37. (1) The accounts of the Board in respect of each financial year shall be submitted to the Auditor-General for audit before the lapse of six months from the end of the financial year. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the

services of any qualified auditor or auditors who shall act under his direction and control.

(2) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Board, the Auditor-General shall be paid from the funds of the Board such remuneration as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, determine. Any remuneration received from the Board by the Auditor-General shall, after deducting any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

(3) The Auditor-General and any person assisting him in the audit of the accounts of the Board shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Board as the Auditor-General may consider necessary for the purposes of the audit, and shall be furnished by the Board, or its officers with such information within their knowledge as may be required for such purposes.

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

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

38. (1) The Auditor-General shall examine the accounts of the Board and furnish a report—

The Auditor-General's report.

- (a) stating whether he has or has not obtained all the information and explanations required by him ;

PART VI

STAFF AND DEPARTMENTS OF THE BOARD

(b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Board ; and

(c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament and any examination of the activities and accounts of the Board.

(2) The Auditor-General shall transmit his report to the Board together with the audited accounts.

The Auditor-General's report and the report of the annual activities of the Board to be transmitted to the Minister.

39. The Board shall, on the receipt of the audited accounts and the Auditor-General's report, report each year, transmit such report and such accounts together with the statement by the Board of its activities during the financial year to which such report relates, to the Minister who shall cause copies thereof to be laid before Parliament within twelve months of the close of the financial year of the Board to which the accounts relate.

Exemption from customs duty.

40. Notwithstanding anything in any other written law, the Principal Collector of Customs may, with the sanction of the Secretary to the Treasury, waive the customs duty on articles imported by the Board for any of its purposes.

Power to borrow.

41. (1) It shall be lawful for the Board, subject to the approval of the Minister, to borrow from the Government or any person or persons such sum or sums of money as may be necessary for any of the purposes of the Board.

(2) Every loan raised by the Board shall be subject to such rate or rates of interest and to such conditions for the repayment thereof as may be approved by the Minister.

(3) For the purposes of securing the repayment of any sums borrowed by the Board and interest accruing thereon, the Board may mortgage or assign to the lender by or on whose behalf such sum or any part thereof may be lent, any property belonging to the Board or assign to such lender any right to any sums of money accruing to the Board.

42. Subject to the other provisions of this Act, the Board may

Staff of the Board.

(a) appoint, dismiss and exercise disciplinary control over the staff of the Board

(b) fix the wages or salary or other remuneration of such staff ;

(c) determine the terms and conditions of service of such staff

(d) establish and regulate a provident fund or scheme for the benefit of such staff and may make contributions towards such fund or scheme.

43. (1) The Board may establish and maintain such number of departments, divisions or agencies of the Board as it may deem necessary for the proper and effective conduct of its business.

Agencies, departments and divisions of the Board.

(2) Each department, division or agency of the Board shall be responsible for the administration and conduct of such part of the business of the Board as may be assigned to it by the Board.

(3) The head of each such department, division or agency and other members of the staff of the Board attached to such department, division or agency shall exercise, discharge and perform such powers, functions and duties as may be determined by the Board.

(4) Regulations may be made under this Act in respect of all or any of the matters referred to in the preceding provisions of this section.

44. (1) At the request of the Board any officer in the public service may, with the consent of that officer and of the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff.

Appointment of public officers to the staff of the Board.

(2) Where an officer in the public service is temporarily appointed to the staff of the Board—

- (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 Board, 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 Board, be deemed to have been absent from duty in the public service on leave granted without salary on grounds of public policy and accordingly, section 10 (i) of those Minutes shall apply to him, and

- (ii) in respect of him, the Board shall pay out of the funds of the Board to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund for every complete month during which he is in the employ of the Board, 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 Board, he was a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance, his service to the Board 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 Board, continue to pay to the Public Service Provident Fund such contribution as he was liable under that Ordinance to pay, and in respect of him the Board shall pay

at the close of each financial year out of the funds of the Board 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 Board—

- (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 Board, his substantive post in the public service was a post declared to be pensionable under the Minutes on Pensions—

- (i) 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 Board,

- (ii) the amount of any such award made under those Minutes shall not be paid to him unless his employment in the Board is terminated by retirement on account of age or ill health or by the abolition of the post held by him in the Board 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 Board, 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 Board may be made in respect of him ; and

(c) if, at the time of his permanent appointment to the staff of the Board, 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 Board employs any person who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

PART VII

GENERAL

Regulations.

45. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act, and for all matters which are required by this Act to be prescribed, or in respect of which regulations are required to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.

(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 such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

Power of Board to compound claims.

46. The Board may compound any claim or demand made against the Board by any person for such sum or - other compensation as the Board may deem sufficient.

47. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Board deemed to be a scheduled institution within the meaning of the Bribery Act.

48. The Board or any officer of the Board authorized in that behalf by the Board, may by notice require any person to furnish to the Board or to such officer, within such period of time as shall be specified in the notice, all such returns and information as are within the knowledge of that person relating to any matter as may be necessary to enable the Board to perform its duties and functions under this Act.

Returns and information.

49. Any public authority or other body of persons (whether corporate or unincorporate) may, notwithstanding anything to the contrary in any written law or instrument relating to its functions, enter into and perform all such contracts with the Board as may be necessary for the exercise, discharge or performance of the powers, functions or duties of the Board.

Power of companies. &c.. to enter into contracts with the Board.

50. (1) The Minister may, subject to the provisions of subsection (2) and subsection (3), by Order published in the Gazette, transfer to the Board—

Transfer of State property and certain contracts and liabilities to the Board.

(a) any movable or immovable property of the State required for the purposes of the Board, and

(b) any contracts and liabilities of the State connected with such purposes.

(2) No movable property, and no contract or liability, of the State shall be transferred to the Board, under subsection (1) without the concurrence of the Minister in charge of the subject of Finance.

(3) No immovable property of the State shall be transferred to the Board under subsection (1) without the concurrence of the Minister in charge of the subject of Finance and the Minister to whom the subject of State lands is for the time being assigned.

(4) Upon the publication of an Order under subsection (1) in the Gazette—

to) the properties specified in that Order shall vest in and be the properties of the Board ;

- (b) the contracts specified in that Order shall be deemed to be the contracts of the Board and all subsisting rights and obligations of the Slate under such contracts shall be deemed to be the rights and obligations of the Board ; and
- (c) the liabilities specified in that Order shall be deemed to be the liabilities of the Board.

(2) Any expense incurred by any member, officer, servant or agent of the Board in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Act, or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, unless such expense is recovered by him in such suit or prosecution.

Power 10
acquire land
t.-umpuliiiorily.

51. The Minister may by Order published in the Gazette approve of the proposed acquisition of any land, or any interest in any land, other than State land, for any purpose of the Board, and where such an Order is so published, the land or the interest in any land specified in the Order shall be deemed to be required for a public purpose and may be acquired under the Land Acquisition Act, and, when so acquired, shall be transferred to the Board under that Act.

54. (1) On such date as the Minister may fix by notification published in the Gazette, the Board shall take over and carry on the business of—

Board to take
over the
business of
certain
Corporations.

(a) " The Industrial Development Board "; and

(b) "The Industrial Estates Corporation ",

set up under the State Industrial Corporations Act.

Exemption
from
provisions of
certain
Ordinances.

52. (1) The Minister who for the time being is in charge of the subject of State lands may, by Order published in the Gazette, exempt the Board from any such provision of any of the following Ordinances as may be specified in the Order ;

State Lands Encroachments Ordinance ;

Stale Lands Ordinance ;

Definition of Boundaries Ordinance ;

Fauna and Flora Protection Ordinance ;

Forest Ordinance ;

Land Development Ordinance.

(2) An Order made and published under subsection (1) shall have the force of law.

(2) Upon the taking over by the Board of the business of the Corporations set up under the State Industrial Corporations Act, and referred to in subsection (1), the Board shall offer employment to every employee of each of the said Corporations upon terms and conditions not less favourable than those enjoyed by such employee before the taking over.

(3) Regulations may be made in respect of all matters directly or indirectly arising out of the carrying out by the Board of its duties referred to in subsection (1) and subsection (2).

55. 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.

This Act to
have
precedence
over other
written law.

Expenses
incurred for
action taken
under this Act
on the
direction of the
Board.

53. (1) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any court shall be paid out of the funds of the Board, and any costs paid to, or recovered by, the Board in any such suit or prosecution shall be credited to the funds of the Board.

56. In this Act, unless the context Interpretation. otherwise requires ;

" agency of the Government " means any body or institution acting on behalf of the Government, whether established by any written law or otherwise ;

INDUSTRIAL DEVELOPMENT

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" Government-sponsored Corporation " has the same meaning as in the Government-sponsored Corporations Act ;

" local authority " includes any Municipal Council, Urban Council, Town

Council or Village Council ;

" public offer " has the same meaning as in the Constitution of the Democratic Socialist Republic of Sri Lanka.

CHAPTER 326

INTERNATIONAL DEVELOPMENT ASSOCIATION AGREEMENT

Act
No. 7 of 1961.

AN ACT TO ENABLE CEYLON TO BECOME A MEMBER OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION.

[20th February. 1961.]

Short title.

1. This Act may be cited as the International Development Association Agreement Act.

(b) shall have in Sri Lanka the immunities and privileges specified in Sections 3 to 9 of the said Article VIII.

Authorization of signature of Articles of Agreement of the International Development Association.

2. The Minister in charge of the subject of Finance is hereby authorized by instrument under his hand to empower such person as may be named in the instrument, on behalf of the Government of Sri Lanka,—

4. The Minister in charge of the subject of Finance, if he thinks fit so to do, may, on behalf of the Government, create and issue to the Association, in such form as he thinks fit, any such non-interest bearing and non-negotiable notes or similar obligations payable at par value on demand to the account of the Association as the Association may, under subsection (e) of Section 2 of Article II of the Articles, determine to accept in place of any part of the subscription paid in or payable by Sri Lanka under subsection (f) of Section 2 of Article II, and Section 2 of Article IV, of the Articles.

Issue of notes or other obligations to the Association.

(a) to sign the Articles of Agreement* (hereinafter referred to as "the Articles") of the International Development Association (hereinafter referred to as "the Association") which are set out in the Schedule to this Act, and

(b) to deposit with the International Bank for Reconstruction and Development (hereinafter referred to as "the Bank") an instrument stating that the Government has accepted the Articles without reservation in accordance with the law of Sri Lanka and has taken all steps to enable the Government to carry out all the obligations of the Government under the Articles,

5. There shall be paid out of the Consolidated Fund—

Payments out of the Consolidated Fund.

(a) such sums as may be required to pay to the Association the initial subscription of Sri Lanka under Section 2 of Article II of the Articles;

(b) such sums as may, from time to time, become payable to the Association by Sri Lanka under the Articles; and

(c) such sums as may be required for the redemption of any notes or obligations created and issued to the Association under this Act.

in order that Sri Lanka which is entitled to be an original member of the Association under Section 1 (a) of Article II of the Articles and Schedule A to the Articles, may accept membership in the Association.

Status, immunities and privileges accorded in Sri Lanka to the Association.

3. The provisions of Sections 2 to 9 of Article VIII of the Articles shall have the force of law in Sri Lanka, and accordingly the Association—

(a) shall have in Sri Lanka the status and capacity specified in Section 2 of the said Article VIII. and

* Minister in charge of the subject of Finance has already exercised the power under section 2, and Articles of Agreement were signed in Washington D.C. on 27th June 1961.

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Issue of Government notes or obligations to the Central Bank.

6. (1) For the purpose of providing any sums required to be paid out of the Consolidated Fund under section 5, the Minister in charge of the subject of Finance is hereby authorized to raise loans, on behalf of the Government, by the creation and issue to the Central Bank of Ceylon, in such form as he thinks fit, of non-interest bearing and non-negotiable notes or obligations.

(2) Notwithstanding anything in the Monetary Law Act, the Central Bank of Ceylon is hereby authorized to accept and hold any notes or obligations created and issued in accordance with the provisions of subsection (1) of this section.

(3) There shall be paid out of the Consolidated Fund all sums required for the redemption of any notes or obligations created and issued to the Central Bank of Ceylon under subsection (1) of this section.

7. All sums received by or on behalf of the Government of Sri Lanka from the Association under the Articles shall be paid into the Consolidated Fund ; and the sums so received, in so far as they represent capital, shall, unless otherwise provided in that behalf by any written law, be applied from time to time as the Minister in charge of the subject of Finance may direct in the redemption of notes or other obligations issued to the Central Bank under this Act. Receipts.

8. The Minister in charge of the subject of Finance may, by Order published in the Gazette, make such other provision as he may consider reasonably necessary for carrying into effect any of the provisions of the Articles, and every Order made under this section and so published shall be laid before Parliament and shall have the force of law unless disapproved within fourteen days. Orders for carrying the articles in o effect.

SCHEDULE

ARTICLES OF AGREEMENT OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION

The Government on whose behalf this Agreement is signed. Considering;

That mutual co-operation for constructive economic purposes, healthy development of the world economy and balance growth of international trade foster international relationships conducive to the maintenance of peace and world prosperity;

That an acceleration of economic development which will promote higher standards of living and economic and social progress in the less-developed countries is desirable not only in the interests of those countries but also in the interests of the international community as a whole.

That achievement of these objectives would be facilitated by an increase in the international flow of capital, public and private, to assist in the development of the resources of the less-developed countries, do hereby agree as follows:—

INTRODUCTORY ARTICLE

The INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called "the Association") is established and shall operate in accordance with the following provisions :—

ARTICLE I

PURPOSES

The purposes of the Association are to promote economic development, increase productivity and thus raise Standards of living in the less-developed areas of the world included within the Association's membership, in particular by providing finance to meet their important developmental requirements on terms which are more flexible and bear less heavily on the balance of payments than those of conventional loans, thereby furthering the developmental objectives of the International Bank for Reconstruction and Development (hereinafter called "the Bank ") and supplementing its activities.

The Association shall be guided in all its decisions by the provisions of this Article.

ARTICLE II

MEMBERSHIP; INITIAL SUBSCRIPTIONS

SECTION 1.—Membership

(a) The Original members of the Association shall be those members of the Bank listed in Schedule A hereto which, on or before the date specified in Article XI, Section 2 (c), accept membership in the Association;

(b) Membership shall be open to other members of the Bank at such times and in accordance with such terms as the Association may determine.

SECTION 2.—Initial Subscriptions

(a) Upon accepting membership, each member shall subscribe funds in the amount assigned to it. Such subscriptions are herein referred to as initial subscriptions.

(b) The initial subscription assigned to each original member shall be in the amount set forth opposite its name in Schedule A, expressed in terms of United States dollars of the weight and fineness in effect on January 1, 1960.

(c) Ten per cent of the initial subscription of each original member shall be payable in gold or freely convertible currency as follows : fifty per cent within thirty days after the date on which the Association shall begin operations pursuant to Article XI, Section 4, or on the date on which the original member becomes a member, whichever shall be later; twelve and one-half per cent one year after the beginning of operations of the Association ; and twelve and one-half per cent each year thereafter at annual intervals until the ten per cent portion of the initial subscription shall have been paid in full.

(d) The remaining ninety per cent of the initial subscription of each original member shall be payable in gold or freely convertible currency in the case of members listed in Part I of Schedule A, and in the currency of the subscribing member in the case of members listed in Part II of Schedule A. This ninety per cent portion of initial subscriptions of original members shall be payable in five equal annual instalments as follows ; the first such instalment within thirty days after the date on which the Association shall begin operations pursuant to Article XI, Section 4, or on the date on which the original member becomes a member, whichever shall be later; the second instalment one year after the beginning of operations of the Association, and succeeding instalments each year thereafter at annual intervals until the ninety per cent portion of the initial subscription shall have been paid in full.

(e) The Association shall accept from any member, in place of any part of the member's currency paid in or payable by the member under the preceding subsection (d) or under Section 2 of Article IV and not needed by the Association in its operations, notes or similar obligations issued by the government of the member or the depository designated by such member, which shall be non-negotiable, non-interest bearing and payable at their par value on demand to the account of the Association in the designated depository.

(f) For the purpose of this Agreement the Association shall regard as " freely convertible currency ":

(i) currency of a member which the Association determines, after consultation with the International Monetary Fund, is adequately convertible into the currencies of other members for the purposes of the Association's operations; or

(ii) currency of a member which such member agrees, on terms satisfactory to the Association, to exchange for the currencies of other members for the purposes of the Association's operations.

(g) Except as the Association may otherwise agree, each member listed in Part I of Schedule A shall maintain, in respect of its currency paid in by it as freely convertible currency pursuant to subsection ((f)) of this Section, the same convertibility as existed at the time of payment.

(h) The conditions on which the initial subscriptions of members other than original members may be made, and the amounts and the terms of payment thereof, shall be determined by the Association pursuant to Section 1 (&) of this Article.

SECTION 3.—Limitation on Liability

No member shall be liable, by reason of its membership, for obligations of the Association.

ARTICLE III

ADDITIONS TO RESOURCES

SECTION 1.—Additional Subscriptions

(a) The Association shall at such time as it deems appropriate in the light of the schedule for completion of payments on initial subscriptions of original members, and at intervals of approximately five years thereafter,

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review the adequacy of its resources and, if it deems desirable, shall authorize a general increase in subscriptions. Notwithstanding the foregoing, general or individual increases in subscriptions may be authorized at any time, provided that an individual increase shall be considered only at the request of the member involved. Subscriptions pursuant to this Section are herein referred to as additional subscriptions-

(b) Subject to the provisions of paragraph (c) below, when additional subscriptions are authorized, the amounts authorized for subscription and the terms and conditions relating thereto shall be as determined by the Association.

(c) When any additional subscription is authorized, each member shall be given an opportunity to subscribe, under such conditions as shall be reasonably determined by the Association, an amount which will enable it to maintain its relative voting power, but no member shall be obligated to subscribe.

(d) All decisions under this Section shall be made by a two-thirds majority of the total voting power.

SECTION 2.—Supplementary Resources Provided by a Member in the Currency of Another Member

(a) The Association may enter into arrangements, on such terms and conditions consistent with the provisions of this Agreement as may be agreed upon, to receive from any member, in addition to the amounts payable by such member on account of its initial or any additional subscription, supplementary resources in the currency of another member, provided that the Association shall not enter into any such arrangement unless the Association is satisfied that the member whose currency is involved agrees to the use of such currency as supplementary resources and to the terms and conditions governing such use. The arrangements under which any such resources are received may include provisions regarding the disposition of earnings on the resources and regarding the disposition of the resources in the event that the member providing them ceases to be a member or the Association permanently suspends its operations.

(b) The Association shall deliver to the contributing member a Special Development Certificate setting forth the amount and currency of the resources so contributed and the terms and conditions of the arrangement relating to such resources. A Special Development Certificate shall not carry any voting rights and shall be transferable only to the Association.

(c) Nothing in this Section shall preclude the Association from accepting resources from a member in its own currency on such terms as may be agreed upon.

ARTICLE IV

CURRENCIES

SECTION I. -Use of Currencies

(a) Currency of any member listed in Part II of Schedule A, whether or not freely convertible, received by the Association pursuant to Article II, Section 2 (*l*), in payment of the ninety per cent portion payable thereunder in the currency of such member, and currency of such member derived therefrom as principal, interest or other charges, may be used by the Association for administrative expenses incurred by the Association in the territories of such member and, insofar as consistent with sound monetary policies, in payment for goods and services produced in the territories of such member and required for projects financed by the Association and located in such territories; and in addition when and to the extent justified by the economic and financial situation of the member concerned as determined by agreement between the member and the Association, such currency shall be freely convertible or otherwise usable for projects financed by the Association and located outside the territories of the member.

(b) The usability of currencies received by the Association in payment of subscriptions other than initial subscriptions of original members, and currencies derived therefrom as principal, interest or other charges, shall be governed by the terms and conditions on which such subscriptions are authorized.

(c) The usability of currencies received by the Association as supplementary resources other than subscriptions, and currencies derived therefrom as principal, interest or other charges, shall be governed by the terms of the arrangements pursuant to which such currencies are received.

(c) All other currencies received by the Association may be freely used and exchanged by the Association and shall not be subject to any restriction by the member whose currency is used or exchanged; provided that the foregoing shall not preclude the Association from entering into any arrangements with the member in whose territories any project financed by the Association is located restricting the use by the Association of such member's currency received as principal, interest or other charges in connexion with such financing.

(e) The Association shall take appropriate steps to ensure that, over reasonable intervals of time, the portions of the subscriptions paid under Article II, Section 2 (*it*) by members listed in Part I of Schedule A shall be used by

the Association on an approximately pro rata basis, provided, however, that such portions of such subscriptions as are paid in gold or in a currency other than that of the subscribing member may be used more rapidly.

SECTION 2.—Maintenance of Value of Currency Holdings

(a) Whenever the par value of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Association, depreciated to a significant extent within that member's territories, the member shall pay to the Association within a reasonable time an additional amount of its own currency sufficient to maintain the value as of the time of subscription, of the amount of the currency of such member paid in to the Association by the member under Article II, Section 2 (*d*), and currency furnished under the provisions of the present paragraph, whether or not such currency is held in the form of notes accepted pursuant to Article II, Section 2 (*e*), provided, however, that the foregoing shall apply only so long as and to the extent that such currency shall not have been initially disbursed or exchanged for the currency of another member.

(b) Whenever the par value of a member's currency is increased, or the foreign exchange value of a member's currency has, in the opinion of the Association, appreciated to a significant extent within that member's territories, the Association shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency to which the provisions of paragraph (f) of this Section are applicable.

(c) The provisions of the preceding paragraphs may be waived by the Association when a uniform proportionate change in the par value of the currencies of all its members is made by the International Monetary Fund.

(d) Amounts furnished under the provisions of paragraph (a) of this Section to maintain the value of any currency shall be convertible and usable to the same extent as such currency.

ARTICLE V

OPERATIONS

SECTION 1.—Use of Resources and Conditions of Financing

(a) The Association shall provide financing to further development in the less-developed areas of the world included within the Association's membership.

(b) Financing provided by the Association shall be for purposes which in the opinion of the Association are of high developmental priority in the light of the needs of the area or areas concerned and, except in special circumstances, shall be for specific projects.

(c) The Association shall not provide financing if in its opinion such financing is available from private sources on terms which are reasonable for the recipient or could be provided by a loan of the type made by the Bank.

(d) The Association shall not provide financing except upon the recommendation of a competent committee, made after a careful study of the merits of the proposal. Each such committee shall be appointed by the Association and shall include a nominee of the Governor or Governors representing the member or members in whose territories the project under consideration is located and one or more members of the technical staff of the Association. The requirement that the committee include the nominee of a Governor or Governors shall not apply in the case of financing provided to a public international or regional organization.

(e) The Association shall not provide financing for any project if the member in whose territories the project is located objects to such financing, except that it shall not be necessary for the Association to assure itself that individual members do not object in the case of financing provided to a public international or regional organization.

(f) The Association shall impose no conditions that the proceeds of its financing shall be spent in the territories of any particular member or members. The foregoing shall not preclude the Association from complying with any restrictions attached to supplementary resources pursuant to agreement between the Association and the contributor.

(g) The Association shall make arrangements to ensure that the proceeds of any financing are used only for the purposes for which the financing was provided, with due attention to considerations of economy, efficiency and competitive international trade and without regard to political or other non-economic influences or considerations.

(h) Funds to be provided under any financing operation shall be made available to the recipient only to meet expenses in connexion with the project as they are actually incurred.

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SECTION 2.—Form and Terms of Financing

(a) Financing by the Association shall take the form of loans. The Association may, however, provide other financing, either—

- (i) out of funds subscribed pursuant to Article III, Section 1, and funds derived therefrom as principal, interest or other charges, if the authorization for such subscriptions expressly provides for such financing; or
- (ii) in special circumstances, out of supplementary resources furnished to the Association, and funds derived therefrom as principal, interest or other charges, if the arrangements under which such resources are furnished expressly authorize such financing.

(b) Subject to the foregoing paragraph, the Association may provide financing in such forms and on such terms as it may deem appropriate, having regard to the economic position and prospects of the area or areas concerned and to the nature and requirements of the project.

(c) The Association may provide financing to a member, the government of a territory included within the Association's membership, a political sub-division of any of the foregoing, a public or private entity in the territories of a member or members, or to a public international or regional organization.

(d) In the case of a loan to an entity other than a member, the Association may, in its discretion, require a suitable governmental or other guarantee or guarantees.

(e) The Association, in special cases, may make foreign exchange available for local expenditures.

SECTION 3.—Modifications of Terms of Financing

The Association may, when and to the extent it deems appropriate in the light of all relevant circumstances including the financial and economic situation and prospects of the member concerned, and on such conditions as it may determine, agree to a relaxation or other modification of the terms on which any of its financing shall have been provided.

SECTION 4.—Co-operation with Other International Organizations and Members Providing Development Assistance

The Association shall co-operate with those public international organizations and members which provide financial and technical assistance to the less-developed areas of the world.

SECTION 5.—Miscellaneous Operations

In addition to the operations specified elsewhere in this Agreement, the Association may :

- (i) borrow funds with the approval of the member in whose currency the loan is denominated;
- (ii) guarantee securities in which it has invested in order to facilitate their sale;
- (iii) buy and sell securities it has issued or guaranteed or in which it has invested ;
- (iv) in special cases, guarantee loans from other sources for purposes not inconsistent with the provisions of these Articles;
- (v) provide technical assistance and advisory services at the request of a member; and
- (vi) exercise such other powers incidental to its operations as shall be necessary or desirable in furtherance of its purposes-

SECTION 6.—Political Activity Prohibited

The Association and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in this Agreement.

ARTICLE VI

ORGANIZATION AND MANAGEMENT

SECTION 1.—Structure of the Association

The Association shall have a Board of Governors, Executive Directors, a President and such other officers and staff to perform such duties as the Association may determine.

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SECTION 2.—Board of Governors

(a) All the powers of the Association shall be vested in the Board of Governors.

(b) Each Governor and Alternate Governor of the Bank appointed by a member of the Bank which is also a member of the Association shall ex officio be a Governor and Alternate Governor, respectively, of the Association. No Alternate Governor may vote except in the absence of his principal. The Chairman of the Board of Governors of the Bank shall ex officio be Chairman of the Board of Governors of the Association except that if the Chairman of the Board of Governors of the Bank shall represent a state which is not a member of the Association, then the Board of Governors shall select one of the Governors as Chairman of the Board of Governors. Any Governor or Alternate Governor shall cease to be a member of the Association.

(c) The Board of Governors may delegate to the Executive Directors authority to exercise any of its powers, except the power to :

- (i) admit new members and determine the conditions of their admission;
- (ii) authorize additional subscriptions and determine the terms and conditions relating thereto;
- (iii) suspend a member ;
- (iv) decide appeals from interpretations of this Agreement given by the Executive Directors;
- (v) make arrangements pursuant to Section 7 of this Article to co-operate with other international organizations (other than informal arrangements of a temporary and administrative character);
- (vi) decide to suspend permanently the operations of the Association and to distribute its assets ;
- (vii) determine the distribution of the Association's net income pursuant to Section 12 of this Article; and
- (viii) approve proposed amendments to this Agreement.

(d) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Executive Directors.

(e) The annual meeting of the Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank.

(f) A quorum for any meeting of the Board of Governors shall be a majority of the Governors, exercising not less than two-thirds of the total voting power.

(g) The Association may by regulation establish a procedure whereby the Executive Directors may obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

(h) The Board of Governors, and the Executive Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Association.

(i) Governors and Alternate Governors shall serve as such without compensation from the Association.

SECTION 3—Voting

(a) Each original member shall, in respect of its initial subscription, have 500 votes plus one additional vote for each \$ 5,000 of its initial subscription. Subscriptions other than initial subscriptions of original members shall carry such voting rights as the Board of Governors shall determine pursuant to the provisions of Article II, Section I (b) or Article III, Section 1 (b) and (c), as the case may be. Additions to resources other than subscriptions under Article II, Section 1, (b) and additional subscriptions under Article III, Section 1, shall not carry voting rights.

(b) Except as otherwise specifically provided, all matters before the Association shall be decided by a majority of the votes cast.

SECTION 4.—Executive Directors

(a) The Executive Directors shall be responsible for the conduct of the general operations of the Association, and for this purpose shall exercise all the powers given to them by this Agreement or delegated to them by the Board of Governors.

(b) The Executive Directors of the Association shall be composed ex officio of each Executive Director of the Bank who shall have been (i) appointed by a member of the Bank which is also a member of the Association, or (ii) elected in an election in which the votes of at least one member of the Bank which is also a member of the

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Association shall have counted toward his election. The Alternate to each such Executive Director of the Bank shall ex officio be an Alternate Director of the Association. Any Director shall cease to hold office if the member by which he was appointed, or if all the members whose votes counted toward his election, shall cease to be members of the Association.

(c) Each Director who is an appointed Executive Director of the Bank shall be entitled to cast the number of votes which the member by which he was appointed is entitled to cast in the Association. Each Director who is an elected Executive Director of the Bank shall be entitled to cast the number of votes which the member or members of the Association whose votes counted toward his election in the Bank are entitled to cast in the Association. All the votes which a Director is entitled to cast shall be cast as a unit.

(d) An Alternate Director shall have full power to act in the absence of the Director who shall have appointed him. When a Director is present, his Alternate may participate in meetings but shall not vote.

(e) A quorum for any meeting of the Executive Directors shall be a majority of the Directors exercising not less than one-half of the total voting power.

(f) The Executive Directors shall meet as often as the business of the Association *may* require.

(g) The Board of Governors shall adopt regulations under which a member of the Association not entitled to appoint an Executive Director of the Bank may send a representative to attend any meeting of the Executive Directors of the Association when a request made by, or a matter particularly affecting, that member is under consideration.

SECTION 5.—President and Staff

(a) The President of the Bank shall be ex officio President of the Association. The President shall be Chairman of the Executive Directors of the Association but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Govt. nors but shall not vote at such meetings.

(b) The President shall be chief of the operating staff of the Association. Under the direction of the Executive Directors he shall conduct the ordinary business of the Association and under their general control shall be responsible for the organization, appointment and dismissal of the officers and staff. To the extent practicable, officers and staff of the Bank shall be appointed to serve concurrently as officers and staff of the Association.

(c) The President, officers and staff of the Association, in the discharge of their offices, owe their duty entirely to the Association and to no other authority. Each member of the Association shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) In appointing officers and staff the President shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of recruiting personnel on as wide a geographical basis as possible.

SECTION 6.—Relationship to the Bank

(a) The Association shall be an entity separate and distinct from the Bank and the funds of the Association shall be kept separate and apart from those of the Bank. The Association shall not borrow from or lend to the Bank, except that this shall not preclude the Association from investing funds not needed in its financing operation in obligations of the Bank.

(b) The Association may make arrangements with the Bank regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid in the first instance by either organization on behalf of the other.

(c) Nothing in this Agreement shall make the Association liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Association.

SECTION 7.—Relations with Other International Organizations

The Association shall enter into formal arrangements with the United Nations and may enter into such arrangements with other public international organizations having specialized responsibilities in related fields.

SECTION 8.—Location of Offices

The principal office of the Association shall be the principal office of the Bank. The Association may establish other offices in the territories of any member.

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SECTION 9.—Depositories

Each member shall designate its central bank as a depository in which the Association may keep holdings of such member's currency or other assets of the Association, or, if it has no central bank, it shall designate for such purpose such other institution as may be acceptable to the Association. In the absence of any different designations, the depository designated for the Bank shall be the depository for the Association.

SECTION 10.—Channel of Communication

Each member shall designate an appropriate authority with which the Association may communicate in connexion with any matter arising under this Agreement. In the absence of any different designation, the channel of communication designated for the Bank shall be the channel for the Association.

SECTION 11.—Publication of Reports and Provision of Information

(a) The Association shall publish an annual report containing an audited statement of its accounts and shall circulate to members at appropriate intervals a summary statement of its financial position and of the results of its operations.

(b) The Association may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this Section shall be distributed to members.

SECTION 12.—Disposition of Net Income

The Board of Governors shall determine from time to time the disposition of the Association's net income, having due regard to provision or reserves and contingencies.

ARTICLE VII

WITHDRAWAL: SUSPENSION OF MEMBERSHIP; SUSPENSION OF OPERATIONS

SECTION 1.—Withdrawal of Members

Any member may withdraw from membership in the Association at any time by transmitting a notice in writing to the Association at its principal office. Withdrawal shall become effective upon the date such notice is received.

SECTION 2.—Suspension of Membership

(a) If a member fails to fulfil any of its obligations to the Association, the Association may suspend its membership by decision of a majority of the Governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

(b) While under suspension, a member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all obligations.

SECTION 3.—Suspension or Cessation of Membership in the Bank

Any member which is suspended from membership in, or ceases to be a member of, the Bank shall automatically be suspended from membership in, or cease to be a member of, the Association, as the case may be.

SECTION 4.—Rights and Duties of Government ceasing to be Members

(a) When a government ceases to be a member, it shall have no rights under this Agreement except as provided in this Section and in Article X (c), but it shall, except as in this Section otherwise provided, remain liable for all financial obligations undertaken by it to the Association, whether as a member, borrower, guarantor or otherwise.

(b) When a government ceases to be a member, the Association and the government shall proceed to a settlement of accounts. As part of such settlement of accounts, the Association and the government may agree on the amounts to be paid to the government on account of its subscription and on the time and currencies of payment. The term "subscription" when used in relation to any member government shall for the purposes of this Article be deemed to include both the initial subscription and any additional subscription of such member government.

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(c) If no such agreement is reached within six months from the date when the government ceased to be a member, or such other time as may be agreed upon by the Association and the government, the following provisions shall apply:

- (i) The government shall be relieved of any further liability to the Association on account of its subscription, except that the government shall pay to the Association forthwith amounts due and unpaid on the date when the government ceased to be a member and which in the opinion of the Association are needed by it to meet *its* commitments as of that date under its financing operations.
- (ii) The Association shall return to the government funds paid in by the government on account of its subscription or derived therefrom as principal repayments and held by the Association on the date when the government ceased to be a member, except to the extent that in the opinion of the Association such funds will be needed by it to meet its commitments as of that date under its financing operations.
- (iii) The Association shall pay over to the government a pro rata share of all principal repayments received by the Association after the date on which the government ceases to be a member on loans contracted prior thereto, except those made out of supplementary resources provided to the Association under arrangements specifying special liquidation rights. Such share shall be such proportion of the total principal amount of such loans as the total amount paid by the government on account of its subscription and not returned to it pursuant to clause (ii) above shall bear to the total amount paid by all members on account of their subscriptions which shall have been used or in the opinion of the Association will be needed by it to meet its commitments under its financing operations as of the date on which the government ceases to be a member. Such payment by the Association shall be made in instalments when and as such principal repayments are received by the Association, but not more frequently than annually. Such instalments shall be paid in the currencies received by the Association except that the Association may in its discretion make payment in the currency of the government concerned.
- (iv) Any amount due to the government on account of its subscription may be withheld so long as that government, or the government of any territory included within its membership, or any political subdivision or any agency of any of the foregoing remains liable, as borrower or guarantor, to the Association, and such amount may, at the option of the Association, be applied against any such liability as it matures.
- (v) In no event shall the government receive under this paragraph (c) an amount exceeding, in the aggregate, the lesser of the two following: (a) the amount paid by the government on account of its subscription, or (b) such proportion of the net assets of the Association, as shown on the books of the Association as of the date on which the government ceased to be a member, as the amount of its subscription shall bear to the aggregate amount of the subscription of all members.
- (vi) All calculations required hereunder shall be made on such basis as shall be reasonably determined by the Association.

(d) In no event shall any amount due to a government under this Section be paid until six months after the date upon which the government ceases to be a member. If within six months of the date upon which any government ceases to be a member the Association suspends operations under Section 5 of this Article, all rights of such government shall be determined by the provisions of such Section 5 and such government shall be considered a member of the Association for purposes of such Section 5, except that it shall have no voting rights.

SECTION 5.—Suspension of Operation and Settlement of Obligations

(a) The Association may permanently suspend its operations by vote of a majority of the Governors exercising a majority of the total voting power. After such suspension of operations the Association shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations. Until final settlement of such obligations and distribution of such assets, the Association shall remain in existence and all mutual rights and obligations of the Association and its members under this Agreement shall continue unimpaired, except that no member shall be suspended or shall withdraw and that no distribution shall be made to members except as in this Section provided.

(b) No distribution shall be made to members on account of their subscriptions until all liabilities to creditors shall have been discharged or provided for and until the Board of Governors, by vote of a majority of the Governors exercising a majority of the total voting power, shall have decided to make such distribution.

(c) Subject to the foregoing, and to any special arrangements for the disposition of supplementary resources agreed upon in connexion with the provision of such resources to the Association, the Association shall distribute its assets to members pro rata in proportion to amounts paid in by them on account of their subscriptions. Any distribution pursuant to the foregoing provision of this paragraph (c) shall be subject, in the case of any member, to prior settlement of all outstanding claims by the Association against such member. Such distribution shall be made at such times, in such currencies, and in cash or other assets as the Association shall deem fair and equitable. Distribution to the several members need not be uniform in respect of the type of assets distributed or of the currencies in which they are expressed.

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(d) Any member receiving assets distributed by the Association pursuant to this Section or Section 4 shall enjoy the same rights with respect to such assets as the Association enjoyed prior to their distribution.

ARTICLE VIII

STATUS, IMMUNITIES AND PRIVILEGES

SECTION 1.—Purposes of Article

To enable the Association to fulfil the functions with which it is entrusted, the status, immunities and privileges provided in this Article shall be accorded to the Association in the territories of each member.

SECTION 2.—Status of the Association

The Association shall possess full juridical personality and, in particular, the capacity:

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3.—Position of the Association with Regard to Judicial Process

Actions may be brought against the Association only in a court of competent jurisdiction in the territories of a member in which the Association has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Association shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Association.

SECTION 4.—Immunity of Assets from Seizure

Property and assets of the Association, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5.—Immunity of Archives

The archives of the Association shall be inviolable.

SECTION 6.—Freedom of Assets from Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Association shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7.—Privilege for Communications

The official communications of the Association shall be accorded by each member the same treatment that it accords to the official communications of other members.

SECTION 8.—Immunities and Privileges of Officers and Employees

All Governors, Executive Directors, Alternates, officers and employees of the Association:

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Association waives this immunity ;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members ;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

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SECTION 9.—Immunities from Taxation

(a) The Association, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Association shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Association to Executive Directors, Alternates, officials or employees of the Association who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Association (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is issued by the Association; or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Association.

(ri) No taxation of any kind shall be levied on any obligation or security guaranteed by the Association (including any dividend or interest thereon) by whomsoever held—

(i) which discriminates against such obligation or security solely because it is guaranteed by the Association; or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Association.

SECTION 10.—Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this article and shall inform the Association of the detailed action which it has taken.

ARTICLE IX

AMENDMENTS

(o) Any proposal to introduce modifications in this Agreement, whether emanating from a member, a Governor or the Executive Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board. If the proposed amendment is approved by the Board, the Association shall, by circular letter or telegram, ask all members whether they accept the proposed amendment- When three-fifths of the members, having four-fifths of the total voting power, have accepted the proposed amendments, the Association shall certify the fact by formal communication addressed to all members.

(b) Notwithstanding (a) above, acceptance by all members is required in the case of any amendment modifying—

(i) the right to withdraw from the Association provided in Article VII, Section I;

(ii) the right secured by Article III, Section 1 (c);

(iii) the limitation on liability provided in Article II, Section 3.

(c) Amendments shall enter into force for all members three months after the date of the formal communication unless a short period is specified in the circular letter or telegram.

ARTICLE X

INTERPRETATION AND ARBITRATION

(a) Any question of interpretation of the provisions of this Agreement arising between any member and the Association or between any members of the Association shall be submitted to the Executive Directors for their decision. If the question particularly affects any member of the Association not entitled to appoint an Executive Director of the Bank, it shall be entitled to representation in accordance with Article VI, Section 4 (g).

(b) In any case where the Executive Directors have given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board of Governors, the Association may, so far as it deems necessary, act on the basis of the decision of the Executive Directors.

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(c) Whenever a disagreement arises between the Association and a country which ceased to be a member, or between the Association and any member during the permanent suspension of the Association, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Association, another by the country involved and an umpire, who, unless the parties otherwise agree, shall be appointed by the President of the International Court of Justice or such other authority as may have been prescribed by regulation adopted by the Association. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE XI

FINAL PROVISIONS

SECTION 1.—Entry into Force

This Agreement shall enter into force when it has been signed on behalf of Governments whose subscriptions comprise not less than sixty-five per cent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf, but in no event this Agreement enter into force before September 15, 1960.

SECTION 2.—Signature

(a) Each government on whose behalf this Agreement is signed shall deposit with the Bank an instrument setting forth that it has accepted this Agreement in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Association as from the date of the deposit on its behalf of the instrument referred to in paragraph (a) above except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

(c) This Agreement shall remain open for signature until the close of business on December 31, 1960, at the principal office of the Bank, on behalf of the governments of the states whose names are set forth in Schedule A, provided that, if this Agreement shall not have entered into force by that date, the Executive Directors of the Bank may extend the period during which this Agreement shall remain open for signature by not more than six months.

(d) After this Agreement shall have entered into force, it shall be open for signature on behalf of the government of any state whose membership shall have been approved pursuant to Article II, Section 1 (b).

SECTION 3.—Territorial Application

By its signature of this Agreement, each government accepts it both on its own behalf and in respect of all territories for whose international relations such government is responsible except those which are excluded by such government by written notice to the Association.

SECTION 4.—Inauguration of the Association

(a) As soon as this Agreement enters into force under Section 1 of this Article the President shall call a meeting of the Executive Directors.

(b) The Association shall begin operations on the date when such meeting is held.

(c) Pending the first meeting of the Board of Governors, the Executive Directors may exercise all the powers of the Board of Governors except those reserved to the Board of Governors under this Agreement.

SECTION 5.—Registration

The Bank is authorized to register this Agreement with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

DONE at Washington, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to act as depository of this Agreement, to register this Agreement with the Secretariat at the United Nations and to notify all governments whose names are set forth in Schedule A of the date when this Agreement shall have entered into force under Article XI, Section 1 hereof.

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SCHEDULE A—INITIAL SUBSCRIPTIONS

(US \$ Millions)*

PART I

Australia	20.18	Japan	33.59
Austria	5.04	Luxembourg	1.01
Belgium	22.70	Netherlands	27.74
Canada	37.83	Norway	6.72
Denmark	8.74	Sweden	10.09
Finland	3.83	Union of South Africa	10.09
France	52.96	United Kingdom	131.14
Germany	52.96	United States	320.29
Italy	18.16		-763.07

PART II

Afghanistan	1.01	Israel	1.68
Argentina	18.83	Jordan	0.30
Bolivia	1.06	Korea	1.26
Brazil	18.83	Lebanon	0.45
Burma	2.02	Libya	1.01
Ceylonf	3.03	Malaya	2.52
Chile	3.53	Mexico	8.74
China	30.26	Morocco	3.53
Colombia	3.53	Nicaragua	0.30
Costa Rica	0.20	Pakistan	10.09
Cuba	4.71	Panama	0.02
Dominican Republic	0.40	Paraguay	0.30
Ecuador	0.65	Peru	1.77
El Salvador	0.30	Philippines	5.04
Ethiopia	0.50	Saudi Arabia	3.70
Ghana	2.36	Spain	10.09
Greece	2.52	Sudan	1.01
Guatemala	0.40	Thailand	3.03
Haiti	0.76	Tunisia	1.51
Honduras	0.30	Turkey	5.80
Iceland	0.10	United Arab Republic	6.03
India	40.35	Uruguay	1.06
Indonesia	11.10	Venezuela	7.06
Iran	4.54	Viet-Nam	1.51
Iraq	0.76	Yugoslavia	4.04
Ireland	3.03		-236.93

TOTAL **1,000.00**

* In terms of United States dollars of the weight and fineness in effect on January 1, 1960.
f Now Sri Lanka.

CHAPTER 166

INTERIM DEVALUATION ALLOWANCE OF EMPLOYEES

Act No. 40 of 1968. AN ACT TO PROVIDE FOR THE PAYMENT, OTHERWISE THAN BY EMERGENCY LAWS, OF AN INTERIM DEVALUATION ALLOWANCE BY EMPLOYERS TO INDUSTRIAL AND AGRICULTURAL EMPLOYEES, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[18 th November, 1968.]

Short title. **1.** This Act may be cited as the Interim Devaluation Allowance of Employees Act.

Competent authority. **2.** (1) The Commissioner shall be the competent authority for the purposes of this Act.

(2) The competent authority may delegate to any officer of the Labour Department any power, function or duty conferred or imposed on such authority by this Act.

This Act to have force and effect notwithstanding anything in any other written law, &c.

3. The provisions of this Act shall have force and effect notwithstanding anything in any other written law, or in any contract of employment, whether oral, written, express or implied ; and accordingly, in the event of any conflict or inconsistency between such provisions and any such other law or such contract, such provisions shall to the extent of such inconsistency prevail over any such other law or such contract.

Interim devaluation allowance.

4. (1) On and after the 18th day of November, 1968, every employer of any industrial or agricultural employee shall, in respect of each month, pay such employee an interim allowance, in this Act referred to as an " interim devaluation allowance ", calculated at the following rates :—

(a) where such employee is an industrial employee, other than a piece-rated industrial employee, and

(i) is remunerated at a monthly rate and his monthly basic wages do not exceed three hundred rupees, or his monthly consolidated wages do not exceed five hundred and five rupees, at the rate of ten rupees per mensem, or

(ii) is remunerated at a daily rate and his monthly basic wages computed at such daily rate do not exceed three hundred rupees, or his monthly consolidated wages computed at such daily rate do not exceed five hundred and five rupees, at the rate of forty cents per diem for each day in respect of which he is entitled to receive wages ; or

(b) where such employee is an agricultural employee, other than a piece-rated agricultural employee, and

(i) is remunerated at a monthly rate, and his monthly basic wages do not exceed three hundred rupees or his monthly consolidated wages do not exceed five hundred and five rupees, at the rate of seven rupees and fifty cents per mensem, or

(ii) is remunerated at a daily rate and his monthly basic wages computed at such daily rate do not exceed three hundred rupees, or his monthly consolidated wages computed at such daily rate do not exceed five hundred and five rupees, at the rate of thirty cents per diem for each day in respect of which he is entitled to receive wages ; or

(c) where such employee is an industrial or agricultural employee, other than a piece-rated industrial or agricultural employee and is remunerated at a monthly rate, and

- (i) his monthly basic wages exceed three hundred rupees but do not exceed three hundred and ten rupees in the case of an industrial employee, or three hundred and seven rupees and fifty cents in the case of an agricultural employee, at the rate specified in Part I of the Schedule to this Act and applicable in the case of such employee ; or
- (ii) his monthly consolidated wages exceed five hundred and five rupees but do not exceed five hundred and fifteen rupees in the case of an industrial employee, or five hundred and twelve rupees and fifty cents in the case of an agricultural employee, at the rate specified in Part II of that Schedule and applicable in the case of such employee ; or
- (d) where such employee is a piece-rated industrial employee, at the rate of forty cents in respect of each complete unit of four rupees comprising his monthly remuneration, so, however, that the maximum amount payable to such employee as an interim devaluation allowance in respect of any month shall not exceed the amount determined by multiplying forty cents by the number of days specified in respect of that month in Part III of that Schedule, or by the number of days such employee has worked in that month, whichever is greater ; or
- (e) where such employee is a piece-rated agricultural employee, at the rate of thirty cents in respect of each complete unit of two rupees and seventy cents comprising his monthly remuneration, so, however, that the maximum amount payable to such employee as an interim devaluation allowance in respect of any month shall not exceed the amount determined by multiplying thirty cents by the number of days specified in respect of that month in Part III of that Schedule, or by the number of days such employee has worked

in that month, whichever is greater :

Provided, however, that any such employee who is entitled to a cost of living allowance determined in accordance with the Colombo Consumers' Price Index Figure, or to a special allowance payable under the Wages Boards Ordinance, shall not be entitled, for the duration of the period for which such interim devaluation allowance is payable, to any such cost of living allowance in excess of the amount determined in accordance with the cost of living index figure of 116.3, or to such special allowance in excess of the amount paid for the month of December, 1967, unless such cost of living allowance or such special allowance in respect of any month exceeds the aggregate of the cost of living allowance determined in accordance with the aforesaid cost of living index figure, or the special allowance paid for the said month of December and the interim devaluation allowance in which case such employee shall, in respect of that month, be entitled, in addition to the interim devaluation allowance, to be paid the amount of such excess.

(2) The interim devaluation allowance shall be deemed to be part of the cost of living allowance payable in accordance with the Colombo Consumers' Price Index Figure, or the special allowance payable under the decisions of the Wages Boards constituted under the Wages Boards Ordinance for all purposes, whether of any written law or otherwise, for which such cost of living allowance, or special allowance, as the case may be, is taken into account.

5. Any sum due by way of an interim devaluation allowance to an employee under section 4 shall, for all purposes of any written law or otherwise, be deemed to constitute part of his wages, and accordingly every employer of an industrial or agricultural employee shall pay such sum within the period he is liable to pay the wages of such employee.

Payment due under section 4 to constitute part of an employee's wages.

6. The competent authority shall have power—

Power of entry and inspection.

- (a) to enter and inspect at all reasonable hours of the day or night any place

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in which employees are employed for the purpose of examining any register or record of wages, 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 the office of such authority ; or
- (c) to take copies of the whole or any part of any such register or record ; or
- (d) to interrogate any person whom he finds in such place and whom such authority has reasonable cause to believe is an employer or an employee engaged or employed in any trade, industry, business or occupation carried on in such place or is an employer or an employee in the establishment or institution in such place.

Power of competent authority to call for returns.

7. (1) The competent authority may direct any employer to furnish to him before a specified date—

- (a) a return relating to all his employees or any specified class or description of such employees and containing such particulars as such authority may require for the purposes of this Act ; or
- (b) such information or explanation as such authority 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 by such employer.

(2) A direction under subsection (1) of this section may be given by notice published in the Gazette and in two or more newspapers circulating in Sri Lanka.

Special provisions regarding payments under section 4.

8. The amount payable by an employer to an employee by virtue of the operation of the provisions of section 4 shall be in substitution for, and not in addition to, any other payment to which such employee is entitled

from such employer, being a payment which is calculated on the basis of the Colombo Consumers' Price Index Figure, or which is a special allowance under the Wages Boards Ordinance, and is payable under any agreement by whatsoever name or designation called, entered into, or arrived at, under any written law or otherwise.

9. Every person, who having been an industrial or agricultural employee of any employer on the day immediately prior to December 1, 1967, shall, for so long as he continues to be an employee of such employer, be so continued in employment by such employer on such terms and conditions relating to salary, allowances or other payments in money by whatsoever name or designation called, excluding the interim devaluation allowance, as are not less favourable than such employee had or enjoyed on the day immediately prior to that date.

Special provisions regarding continuation of employment.

10. (1) Any employer who fails to pay any sum required to be paid to an employee of such employer under section 4 or who fails to comply with the provisions of section 9 shall be guilty of an offence and shall be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment, and shall, in addition, be liable to a fine not exceeding fifty rupees for each day on which the offence is continued after conviction.

Failure to pay sums due under section 4 or failure to comply with section 9.

(2) Upon the conviction by a court of an employer for an offence by reason of the failure of such employer to pay any sum required to be paid to an employee of such employer under section 4, the court may, in addition to any other penalty which it may have imposed for such offence, order such employer to pay such sum to such employee, within a period specified in the order, and if such sum is not so paid, such sum may be recovered and paid to such employee on the order of the court as if it were a fine imposed by the court.

11. Every person who—

Offences.

- (a) fails to furnish the means required by the competent authority as necessary for any entry or inspection or the exercise of his powers under section 6; or

INTERIM DEVALUATION ALLOWANCE OF EMPLOYEES [Cap.166]

- (b) hinders or molests such authority in the exercise of the powers conferred by that section ; or
- (c) refuses to produce any register or record of wages, or give any information which such authority requires him to produce or give under the powers conferred by that section ; or
- (d) makes or causes to be made any register or record of wages which is false in any material particular, or produces or causes or knowingly allows to be produced any such register or record to such authority acting under the powers conferred by that section, knowing the same to be false ; or
- (e) furnishes any information to such authority acting under the powers conferred by that section, knowing the same to be false ; or
- (f) makes default in complying with any direction given by such authority under section 7, or who, when called upon to furnish a return under the said section 7, knowingly makes or furnishes, or causes to be made or furnished, a false return or a return containing any false statement,

shall be guilty of an offence and shall be liable 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.

12. (1) Where an offence for which an employer is liable under this Act has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer, and either together with, or before or after the conviction of the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

(2) Where an employer who is charged with an offence under this Act proves, to the

satisfaction of the court, that he has used due diligence to enforce the execution of this Act and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance, such employer shall be exempt from any penalty in respect of the offence, without prejudice however to the power of the court under section 10 (2) to order such employer to pay any sum which appears to be due to the employee under section 4.

13. All offences under this Act shall be triable summarily by a Magistrate.

Court of trial for offences.

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

Interpretation.

" agricultural employee " means an employee employed in one or more of the following trades, namely, the tea growing and manufacturing trade, the rubber growing and manufacturing trade, the coconut growing trade, the cinnamon trade, the cocoa, cardamom and pepper growing and manufacturing trade, and the tobacco trade, as defined under and for the purposes of the Wages Boards Ordinance, and includes—

- (a) any such employee engaged on—
 - (i) a rubber plantation less than twenty-five acres in extent ;
 - (ii) a coconut plantation not exceeding ten acres in extent ;
 - (iii) a tobacco plantation not exceeding one acre in extent ;
 - (iv) a cinnamon plantation not exceeding five acres in extent ; or
 - (v) a cocoa plantation not exceeding twenty-five acres in extent;
- (b) a watcher employed on any coconut plantation ;
- (c) a piece-rated agricultural employee which would include any person engaged on weeding or other contract work ;

Liability of employer's agent.

Cap.166] **INTERIM DEVALUATION ALLOWANCE OF EMPLOYEES**

" Commissioner " means the person for the time being holding the office of Commissioner of Labour and includes any person for the time being holding office as a Deputy Commissioner of Labour or as a Senior Assistant Commissioner of Labour or as an Assistant Commissioner of Labour or as a labour officer ;

" consolidated wages " means wages, other than wages comprised of the following :—

(a) basic wage;

(b) a cost of living allowance, a special living allowance, or any other like or similar allowance ;

" employee " means any employee who is liable to contribute to the Employees' Provident Fund,

established by the Employees' Provident Fund Act, and includes any employee who is liable to contribute to any provident fund or contributory pension scheme which has been declared under that Act to be an approved provident fund or an approved contributory pension scheme, but does not include an employee of a corporation whose capital is wholly provided by the Government, or a local government employee ;

" employer " means any person who on his own behalf employs, or any person who on behalf of any other person employs, any person ;

" industrial employee " means any employee other than an agricultural employee ;

" wages " includes salary.

SCHEDULE

PART I

INTERIM DEVALUATION ALLOWANCE

Industrial Employee

Agricultural Employee

The difference between Rs. 310 and the monthly basic wages,

The difference between Rs. 307.50 and the monthly basic wages.

PART II

INTERIM DEVALUATION ALLOWANCE

Industrial Employee

Agricultural Employee

The difference between Rs. 515 and the monthly consolidated wages,

The difference between Rs. 512.50 and the monthly consolidated wages.

PART III

January	27	days	April	26	days	July	27	days	October	27	days
February	24		May	27		August	27	"	November	26	»
March	27		June	26		September	26		December	27	"

CHAPTER 328

INTERNATIONAL FINANCE CORPORATION AGREEMENT

Act No. 4 of 1956,
Law No. 28 of 1978.

AN ACT TO ENABLE CEYLON* TO BECOME A MEMBER OF THE INTERNATIONAL FINANCE CORPORATION.

[2nd February, 1956.]

<p>Short title.</p>	<p>1. This Act may be cited as the International Finance Corporation Agreement Act.</p>	<p>3. There shall be paid out of the Consolidated Fund of Ceylon* such sum as may be required to pay to the Corporation 166,000 United States dollars as subscription to 166 shares of stock of the Corporation which are the number of shares to which Ceylon* is entitled to subscribe by virtue of Section 3 (a) of Article II of the Articles and Schedule A to the Articles.</p>	<p>Subscription to the corporation.</p>
<p>Authorization of signature of Articles of Agreement of the International Finance Corporation.</p>	<p>2. The Governor-General is hereby authorized by instrument under his hand to empower such person as may be named in the instrument, on behalf of the Government of Ceylon*—</p> <p>(a) to sign the Articles of Agreement (hereinafter referred to as "the Articles") of the International Finance Corporation (hereinafter referred to as "the Corporation") which are set out in the Schedule to this Act, and</p> <p>(b) to deposit with the International Bank for Reconstruction and Development (hereinafter referred to as "the Bank ") an instrument stating that the Government of Ceylon* (hereinafter referred to as "the Government") has accepted the Articles without reservation in accordance with the law of Ceylon* and has taken all steps necessary to enable the Government to carry out all the obligations of the Government under the Articles,</p>	<p>3. Where the authorized capital stock of the Corporation is increased in pursuance of sub-paragraph (ii) of paragraph (c) of Section 2 of Article II of the Articles and Sri Lanka decides to subscribe such proportion of the increase of that capital stock as Sri Lanka is entitled to subscribe under paragraph (d) of Section 2 of Article II of the Articles, there shall be paid out of the Consolidated Fund of Sri Lanka such sum as may be necessary for making such subscription in accordance with such conditions as may be decided by the Corporation under the aforesaid paragraph (d).</p> <p>4. The provisions of Sections 2 to 9 and Section 11 of Article VI of the Articles shall have the force of law in Sri Lanka, and accordingly the Corporation—</p> <p>(a) shall have in Sri Lanka the status and capacity specified in Section 2 of the said Article VI, and</p> <p>(b) shall, subject to the provisions of Section 11 of the said Article VI, have in Sri Lanka the immunities and privileges specified in Sections 3 to 9 of the said Article VI.</p>	<p>Increase of subscription. [§ 2, Law 28 of 1978.]</p> <p>Status, immunities and privileges accorded in Sri Lanka to the Corporation.</p>

in order that Ceylon*, which is entitled to be an original member of the Corporation by virtue of Section 1 (a) of Article II of the Articles and Schedule A to the Articles, may accept membership! in the Corporation on or before the date specified in Section 2 (c) of Article IX of the Articles.

* Now Sri Lanka.
"t" Ceylon (now Sri Lanka) has accepted membership in the International Finance Corporation with effect from 20th July, 1956.

Orders for carrying the Articles into effect.

5. The President may, by Order published in the Gazette, make such other provision as he may consider reasonably necessary for carrying into effect any of the provisions of the Articles, and every Order made under this section and so published shall have the force of law.

SCHEDULE

ARTICLES OF AGREEMENT OF THE INTERNATIONAL FINANCE CORPORATION

[Section 2.]

The Governments on whose behalf this Agreement is signed agree as follows:

INTRODUCTORY ARTICLE

The International Finance Corporation (hereinafter called the Corporation) is established and shall operate in accordance with the following provisions:

ARTICLE I

PURPOSE

The purpose of the Corporation is to further economic development by encouraging the growth of productive private enterprise in member countries, particularly in the less developed areas, thus supplementing the activities of the International Bank for Reconstruction and Development (hereinafter called the Bank). In carrying out this purpose, the Corporation shall—

- (i) in association with private investors, assist in financing the establishment, improvement and expansion of productive private enterprises which would contribute to the development of its member countries by making investments, without guarantee of repayment by the member government concerned, in cases where sufficient private capital is not available on reasonable terms ;
- (ii) seek to bring together investment opportunities, domestic and foreign private capital, and experienced management; and
- (iii) seek to stimulate, and to help create conditions conducive to, the flow of private capital, domestic and foreign, into productive investment in member countries.

The Corporation shall be guided in all its decisions by the provisions of this Article.

ARTICLE II

MEMBERSHIP AND CAPITAL

SECTION 1. — Membership

(a) The original members of the Corporation shall be those members of the Bank listed in Schedule A hereto which shall, on or before the date specified in Article IX, Section 2 (c), accept membership in the Corporation.

(b) Membership shall be open to other members of the Bank at such times and in accordance with such terms as may be prescribed by the Corporation.

SECTION 2—Capital Stock

(a) The authorized capital stock of the Corporation shall be \$100,000,000, in terms of United States dollars.

(b) The authorized capital stock shall be divided into 100,000 shares having a par value of one thousand United States dollars each. Any such shares not initially subscribed by original members shall be available for subsequent subscription in accordance with Section 3 (d) of this Article.

(c) The amount of capital stock at any time authorized may be increased by the Board of Governors as follows:—

- (i) by a majority of the votes cast, in case such increase is necessary for the purpose of issuing shares of capital stock on initial subscription by members other than original members, provided that the aggregate of any increases authorized pursuant to this sub-paragraph shall not exceed 10,000 shares;

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(ii) in any other case, by a three-fourths majority of the total voting power.

(d) In case of an increase authorized pursuant to paragraph (c) (ii) above, each member shall have a reasonable opportunity to subscribe, under such conditions as the Corporation shall decide, to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Corporation, but no member shall be obligated to subscribe to any part of the increased capital.

(e) Issuance of shares of stock, other than those subscribed either on initial subscription or pursuant to paragraph (d) above, shall require a three-fourths majority of the total voting power.

(f) Shares of stock of the Corporation shall be available for subscription only by, and shall be issued only to members.

SECTION 3.—Subscriptions

(a) Each original member shall subscribe to the number of shares of stock set forth opposite its name in Schedule A. The number of shares of stock to be subscribed by other members shall be determined by the Corporation.

(b) Shares of stock initially subscribed by original members shall be issued at par.

(c) The initial subscription of each original member shall be payable in full within 30 days after either the date on which the Corporation shall begin operations pursuant to Article IX, Section 3 (b), or the date on which such original member becomes a member, whichever shall be later, or at such date thereafter as the Corporation shall determine. Payment shall be made in gold or United States dollars in response to a call by the Corporation which shall specify the place or places of payment.

(d) The price and other terms of subscription of shares of stock to be subscribed, otherwise than on initial subscription by original members, shall be determined by the Corporation.

SECTION 4.—Limitation on Liability

No member shall be liable, by reason of its membership, for obligations of the Corporation.

SECTION 5.—Restriction on Transfers and Pledges of Shares

Shares of stock shall not be pledged or encumbered in any manner whatever, and shall be transferable only to the Corporation.

ARTICLE III

OPERATIONS

SECTION 1.—Financing Operations

The Corporation may make investments of its funds in productive private enterprises in the territories of its members. The existence of a government or other public interest in such an enterprise shall not necessarily preclude the Corporation from making an investment therein.

SECTION 2.—Forms of Financing

(a) The Corporation's financing shall not take the form of investments in capital stock - Subject to the foregoing, the Corporation may make investments of its funds in such form or forms as it may deem appropriate in the circumstances, including (but without limitation) investments according to the holder thereof the right to participate in earnings and the right to subscribe to, or to convert the investment into, capital stock.

(b) The Corporation shall not itself exercise any right to subscribe to, or to convert any investment into, capital stock.

SECTION 3.—Operational Principles

The operations of the Corporation shall be conducted in accordance with the following principles :

(i) the Corporation shall not undertake any financing for which in its opinion sufficient private capital could be obtained on reasonable terms;

(ii) the Corporation shall not finance an enterprise in the territories of any member if the member objects to such financing;

- (iii) the Corporation shall impose no conditions that the proceeds of any financing by it shall be spent in the territories of any particular country;
- (iv) the Corporation shall not assume responsibility for managing any enterprise in which it has invested;
- (v) the Corporation shall undertake its financing on terms and conditions which it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Corporation and the terms and conditions normally obtained by private investors for similar financing ;
- (vi) the Corporation shall seek to revolve its funds by selling its investments to private investors whenever it can appropriately do so on satisfactory terms ;
- (vii) the Corporation shall seek to maintain a reasonable diversification in its investments.

SECTION 4.—Protection of Interests

Nothing in this Agreement shall prevent the Corporation, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Corporation, threaten to jeopardize such investment, from taking such action and exercising such rights as it may deem necessary for the protection of its interests.

SECTION 5.—Applicability of certain Foreign Exchange Restrictions

Funds received by or payable to the Corporation in respect of an investment of the Corporation made in any member's territories pursuant to Section 1 of this Article shall not be free, solely by reason of any provision of this Agreement, from generally applicable foreign exchange restrictions, regulations and controls in force in the territories of that member.

SECTION 6.—Miscellaneous Operations

In addition to the operations specified elsewhere in this Agreement, the Corporation shall have the power to—

- (i) borrow funds, and in that connection to furnish such collateral or other security therefor as it shall determine ; provided, however, that before making a public sale of its obligations in the markets of a member, the Corporation shall have obtained the approval of that member and of the member in whose currency the obligations are to be denominated ;
- (ii) invest funds not needed in its financing operations in such obligations as it may determine and invest funds held by it for pension or similar purposes in any marketable securities, all without being subject to the restrictions imposed by other Sections of this Article ;
- (iii) guarantee securities in which it has invested in order to facilitate their sale ;
- (iv) buy and sell securities it has issued or guaranteed or in which it has invested;
- (v) exercise such other powers incidental to its business as shall be necessary or desirable in furtherance of its purposes.

SECTION 7. — Valuation of Currencies

Whenever it shall become necessary under this Agreement to value any currency in terms of the value of another currency, such valuation shall be as reasonably determined by the Corporation after consultation with the International Monetary Fund.

SECTION 8. — Warning to be Placed on Securities

Every security issued or guaranteed by the Corporation shall bear on its face a conspicuous statement to the effect that it is not an obligation of the Bank or, unless expressly stated on the security, of any government.

SECTION 9. — Political Activity Prohibited

The Corporation and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purposes stated in this Agreement.

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ARTICLE IV

ORGANIZATION AND MANAGEMENT

SECTION 1. — Structure of the Corporation

The Corporation shall have a Board of Governors, a Board of Directors, a Chairman of the Board of Directors, a President and such other officers and staff to perform such duties as the Corporation may determine.

SECTION 2. — Board of Governors

(a) All the powers of the Corporation shall be vested in the Board of Governors.

(b) Each Governor and Alternate Governor of the Bank appointed by a member of the Bank which is also a member of the Corporation shall ex officio be a Governor or Alternate Governor, respectively, of the Corporation. No Alternate Governor may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as Chairman of the Board of Governors. Any Governor or Alternate Governor shall cease to hold office if the member by which he was appointed shall cease to be a member of the Corporation.

(c) The Board of Governors may delegate to the Board of Directors authority to exercise any of its powers, except the power to—

- (i) admit new members and determine the conditions of their admission;
- (ii) increase or decrease the capital stock;
- (iii) suspend a member;
- (iv) decide appeals from interpretations of this Agreement given by the Board of Directors ;
- (v) make arrangements to co-operate with other international organizations (other than informal arrangements of a temporary and administrative character);
- (vi) decide to suspend permanently the operations of the Corporation and to distribute its assets ;
- (vii) declare dividends;
- (viii) amend this Agreement.

(d) The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Board of Directors.

(e) The annual meeting of the Board of Governors shall be held in conjunction with the annual meeting of the Board of Governors of the Bank.

(f) A quorum for any meeting of the Board of Governors shall be a majority of the Governors, exercising not less than two-thirds of the total voting power.

(g) The Corporation may by regulation establish a procedure whereby the Board of Directors may obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

(h) The Board of Governors, and the Board of Directors to the extent authorized, may adopt such rules and regulations as may be necessary or appropriate to conduct the business of the Corporation.

(i) Governors and Alternate Governors shall serve as such without compensation from the Corporation.

SECTION 3. — Voting

(a) Each member shall have two hundred fifty votes plus one additional vote for each share of stock held.

(b) Except as otherwise expressly provided all matters before the Corporation shall be decided by a majority of the votes cast.

SECTION 4. — Board of Directors

(a) The Board of Directors shall be responsible for the conduct of the general operations of the Corporation, and for this purpose shall exercise all the powers given to it by this Agreement or delegated to it by the Board of Governors.

(b) The Board of Directors of the Corporation shall be composed ex officio of each Executive Director of the Bank who shall have been either (i) appointed by a member of the Bank which is also a member of the Corporation, or (ii) elected in an election in which the votes of at least one member of the Bank which is also a member of the Corporation shall have counted toward his election. The Alternate to each such Executive Director of the Bank shall ex officio be an Alternate Director of the Corporation. Any Director shall cease to hold office if the member by which he was appointed, or if all the members whose votes counted toward his election, shall cease to be members of the Corporation.

(c) Each Director who is an appointed Executive Director of the Bank shall be entitled to cast the number of votes which the member by which he was so appointed is entitled to cast in the Corporation. Each Director who is an elected Executive Director of the Bank shall be entitled to cast the number of votes which the member or members of the Corporation whose votes counted toward his election in the Bank are entitled to cast in the Corporation. All the votes which a Director is entitled to cast shall be cast as a unit.

(d) An Alternate Director shall have full power to act in the absence of the Director who shall have appointed him. When a Director is present, his Alternate may participate in meetings but shall not vote.

(e) A quorum for any meeting of the Board of Directors shall be a majority of the Directors exercising not less than one-half of the total voting power.

(f) The Board of Directors shall meet as often as the business of the Corporation may require.

(g) The Board of Governors shall adopt regulations under which a member of the Corporation not entitled to appoint an Executive Director of the Bank may send a representative to attend any meeting of the Board of Directors of the Corporation when a request made by, or a matter particularly affecting, that member is under consideration.

SECTION 5. — Chairman, President and Staff

(a) The President of the Bank shall be ex officio Chairman of the Board of Directors of the Corporation, but shall have no vote except a deciding vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote at such meetings.

(b) The President of the Corporation shall be appointed by the Board of Directors on the recommendation of the Chairman. The President shall be chief of the operating staff of the Corporation. Under the direction of the Board of Directors and the general supervision of the Chairman, he shall conduct the ordinary business of the Corporation and under their general control shall be responsible for the organization, appointment and dismissal of the officers and staff. The President may participate in meetings of the Board of Directors but shall not vote at such meetings. The President shall cease to hold office by decision of the Board of Directors in which the Chairman concurs.

(c) The President, officers and staff of the Corporation, in the discharge of their offices, owe their duty entirely to the Corporation and to no other authority. Each member of the Corporation shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

(d) Subject to the paramount importance of securing the highest standards of efficiency and of technical competence, due regard shall be paid, in appointing the officers and staff of the Corporation, to the importance of recruiting personnel on as wide a geographical basis as possible.

SECTION 6. — Relationship to the Bank

(a) The Corporation shall be an entity separate and distinct from the Bank and the funds of the Corporation shall be kept separate and apart from those of the Bank. The Corporation shall not lend to or borrow from the Bank. The provisions of this Section shall not prevent the Corporation from making arrangements with the Bank regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid in the first instance by either organization on behalf of the other.

(b) Nothing in this Agreement shall make the Corporation liable for the acts or obligations of the Bank, or the Bank liable for the acts or obligations of the Corporation.

SECTION 7. — Relations with other International Organizations

The Corporation, acting through the Bank, shall enter into formal arrangements with the United Nations and may enter into such arrangements with other public international organizations having specialized responsibilities in related fields.

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SECTION 8. — Location of Offices

The principal office of the Corporation shall be in the same locality as the principal office of the Bank. The Corporation may establish other offices in the territories of any member.

SECTION 9. — Depositories

Each member shall designate its central bank as a depository in which the Corporation may keep holdings of such member's currency or other assets of the Corporation or, if it has no central bank, it shall designate for such purpose such other institution as may be acceptable to the Corporation.

SECTION 10. — Channel of Communication

Each member shall designate an appropriate authority with which the Corporation may communicate in connection with any matter arising under this Agreement.

SECTION 11. — Publication of Reports and Provision of Information

(a) The Corporation shall publish an annual report containing an audited statement of its accounts and shall circulate to members at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(b) The Corporation may publish such other reports as it deems desirable to carry out its purposes.

(c) Copies of all reports, statements and publications made under this Section shall be distributed to members.

SECTION 12. — Dividends

(a) The Board of Governors may determine from time to time what part of the Corporation's net income and surplus, after making appropriate provision for reserves, shall be distributed as dividends.

(b) Dividends shall be distributed *pro rata* in proportion to capital stock held by members.

(c) Dividends shall be paid in such manner and in such currency or currencies as the Corporation shall determine.

ARTICLE V

WITHDRAWAL;SUSPENSION OF MEMBERSHIP;SUSPENSION OF OPERATIONS

SECTION 1. — Withdrawal by Members

Any member may withdraw from membership in the Corporation at any time by transmitting a notice in writing to the Corporation at its principal office. Withdrawal shall become effective upon the date such notice is received.

SECTION 2. — Suspension of Membership

(a) If a member fails to fulfil any of its obligations to the Corporation, the Corporation may suspend its membership by decision of a majority of the Governors exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing.

(b) While under suspension, a member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal, but shall remain subject to all obligations.

SECTION 3- — Suspension or Cessation of Membership in the Bank

Any member which is suspended from membership in, or ceases to be a member of, the Bank shall automatically be suspended from membership in, or cease to be a member of, the Corporation, as the case may be.

SECTION 4. — Rights and Duties of Governments ceasing to be Members

(a) When a government ceases to be a member it shall remain liable for all amounts due from it to the Corporation- The Corporation shall arrange for the repurchase of such government's capital stock as a part of the settlement of accounts with it in accordance with the provisions of this Section, but the government shall have no other rights under this Agreement except as provided in this Section and in Article VIII (c).

(b) The Corporation and the government may agree on the repurchase of the capital stock of the government on such terms as may be appropriate under the circumstances, without regard to the provisions of paragraph (c) below. Such agreement may provide, among other things, for a final settlement of all obligations of the government to the Corporation.

(c) If such agreement shall not have been made within six months after the government ceases to be a member or such other time as the Corporation and such government may agree, the repurchase price of the government's capital stock shall be the value thereof shown by the books of the Corporation on the day when the government ceases to be a member. The repurchase of the capital stock shall be subject to the following conditions :—

- (i) payments for shares of stock may be made from time to time, upon their surrender by the government, in such instalments, at such times and in such available currency or currencies as the Corporation reasonably determines, taking into account the financial position of the Corporation;
- (ii) any amount due to the government for its capital stock shall be withheld so long as the government or any of its agencies remains liable to the Corporation for payment of any amount and such amount may, at the option of the Corporation, be set off, as it becomes payable, against the amount due from the Corporation;
- (iii) if the Corporation sustains a net loss on the investments made pursuant to Article III, Section 1. and held by it on the date when the government ceases to be a member, and the amount of such loss exceeds the amount of the reserves provided therefor on such date, such government shall repay on demand the amount by which the repurchase price of its shares of stock would have been reduced if such loss had been taken into account when the repurchase price was determined.

(d) In no event shall any amount due to a government for its capital stock under this Section be paid until six months after the date upon which the government ceases to be a member. If within six months of the date upon which any government ceases to be a member the Corporation suspends operations under Section 5 of this Article, all rights of such government shall be determined by the provisions of such Section 5 and such government shall be considered still a member of the Corporation for purposes of such Section 5, except that it shall have no voting rights.

SECTION 5. — Suspension of Operations and Settlement of Obligations

(a) The Corporation may permanently suspend its operations by vote of a majority of the Governors exercising a majority of the total voting power. After such suspension of operations the Corporation shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations. Until final settlement of such obligations and distribution of such assets, the Corporation shall remain in existence and all mutual rights and obligations of the Corporation and its members under this Agreement shall continue unimpaired, except that no member shall be suspended or withdraw and that no distribution shall be made to members except as in this Section provided.

(b) No distribution shall be made to members on account of their subscriptions to the capital stock of the Corporation until all liabilities to creditors shall have been discharged or provided for and until the Board of Governors, by vote of a majority of the Governors exercising a majority of the total voting power, shall have decided to make such distribution.

(c) Subject to the foregoing, the Corporation shall distribute the assets of the Corporation to members *pro rata* in proportion to capital stock held by them, subject, in the case of any member, to prior settlement of all outstanding claims by the Corporation against such member. Such distribution shall be made at such times, in such currencies, and in cash or other assets as the Corporation shall deem fair and equitable. The shares distributed to the several members need not necessarily be uniform in respect of the type of assets distributed or of the currencies in which they are expressed.

((/)) Any member receiving assets distributed by the Corporation pursuant to this Section shall enjoy the same rights with respect to such assets as the Corporation enjoyed prior to their distribution.

ARTICLE VI

STATUS, IMMUNITIES AND PRIVILEGES

SECTION I. — Purposes of Article

To enable the Corporation to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Corporation in the territories of each member.

SECTION 2. — Status of the Corporation

The Corporation shall possess full juridical personality and, in particular, the capacity—

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

SECTION 3. — Position of the Corporation with regard to Judicial Process

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

SECTION 4. — Immunity of Assets from Seizure

Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

SECTION 5. — Immunity of Archives

The archives of the Corporation shall be inviolable.

SECTION 6. — Freedom of Assets from Restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of Article III, Section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

SECTION 7. — Privilege for Communications

The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

SECTION 8. — Immunities and Privileges of Officers and Employees

All Governors, Directors, Alternates, officers and employees of the Corporation—

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members ;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

SECTION 9. — Immunities from Taxation

(a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held—

- (i) which discriminates against such obligation or security solely because it is issued by the Corporation; or

- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.
- (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held—
 - (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation ;
or
 - (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

SECTION 10. — Application of Article

Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken.

SECTION 11.—Waiver

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such condition as it may determine.

ARTICLE VII**AMENDMENTS**

- (a) This Agreement may be amended by vote of three-fifths of the Governors exercising four-fifths of the total voting power.
- (b) Notwithstanding paragraph (a) above, the affirmative vote of all Governors is required in the case of any amendment modifying—
 - (i) the right to withdraw from the Corporation provided in Article V, Section I;
 - (ii) the pre-emptive right secured by Article II, Section 2 (d);
 - (iii) the limitation on liability provided in Article II, Section 4.
- (c) Any proposal to amend this Agreement, whether emanating from a member, a Governor or the Board of Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before the Board of Governors, When an amendment has been duly adopted, the Corporation shall so certify by formal communication addressed to all members. Amendments shall enter into force for all members three months after the date of the formal communication unless the Board of Governors shall specify a shorter period.

ARTICLE VIII**INTERPRETATION AND ARBITRATION**

- (a) Any question of interpretation of the provisions of this Agreement arising between any member and the Corporation or between any members of the Corporation shall be submitted to the Board of Directors for its decision. If the question particularly affects any member of the Corporation not entitled to appoint an Executive Director of the Bank, it shall be entitled to representation in accordance with Article IV, Section 4 (g).
- (b) In any case where the Board of Directors has given a decision under (a) above, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the result of the reference to the Board of Governors, the Corporation may, so far as it deems necessary, act on the basis of the decision of the Board of Directors.
- (c) Whenever a disagreement arises between the Corporation and a country which has ceased to be a member, or between the Corporation and any member during the permanent suspension of the Corporation, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators, one appointed by the Corporation, another by the country involved and an umpire who, unless the parties otherwise agree, shall be appointed by the President of the International Court of Justice or such other authority as may have been prescribed by regulation adopted by the Corporation. The umpire shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

ARTICLE IX

FINAL PROVISIONS

SECTION I. — Entry into Force

This Agreement shall enter into force when it has been signed on behalf of not less than 30 governments whose subscriptions comprise not less than 75 per cent of the total subscriptions set forth in Schedule A and when the instruments referred to in Section 2 (a) of this Article have been deposited on their behalf, but in no event shall this Agreement enter into force before October 1, 1955.

SECTION 2. — Signature

(o) Each government on whose behalf this Agreement is signed shall deposit with the Bank an instrument setting forth that it has accepted this Agreement without reservation in accordance with its law and has taken all steps necessary to enable it to carry out all of its obligations under this Agreement.

(b) Each government shall become a member of the Corporation as from the date of the deposit on its behalf of the instrument referred to in paragraph (a) above except that no government shall become a member before this Agreement enters into force under Section 1 of this Article.

**(c)* This Agreement shall remain open for signature until the close of business on December 31, 1956, at the principal office of the Bank on behalf of the governments of the countries whose names are set forth in Schedule A.

(d) After this Agreement shall have entered into force, it shall be open for signature on behalf of the government of any country whose membership has been approved pursuant to Article II, Section 1 *(b)*.

SECTION 3. — Inauguration of the Corporation

(a) As soon as this Agreement enters into force under Section 1 of this Article the Chairman of the Board of Directors shall call a meeting of the Board of Directors.

(b) The Corporation shall begin operations on the date when such meeting is held.

(c) Pending the first meeting of the Board of Governors the Board of Directors may exercise all the powers of the Board of Governors except those reserved to the Board of Governors under this Agreement.

Done at Washington, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to act as depository of this Agreement and to notify all governments whose names are set forth in Schedule A of the date when this Agreement shall enter into force under Article IX, Section 1 hereof.

*Ceylon (now Sri Lanka) is a member of the International Finance Corporation with effect from 20th July, 1956.

SCHEDULE A

SUBSCRIPTIONS TO CAPITAL STOCK OF THE INTERNATIONAL FINANCE CORPORATION

<i>Country</i>	<i>Number of Shares</i>	<i>Amount (in United States dollars)</i>
Australia	2,215	2,215,000
Austria	554	554,000
Belgium	2,492	2,492,000
Bolivia	78	78,000
Brazil	1,163	1,163,000
Burma	166	166,000
Canada	3,600	3,600,000
Ceylon*	166	166,000
Chue	388	388,000
China	6,646	6,646,000
Colombia	388	388,000
Costa Rica	22	22,000
Cuba	388	388,000
Denmark	753	753,000
Dominican Republic	22	22,000
Ecuador	35	35,000
Egypt	590	590,000
El Salvador	11	11,000
Ethiopia	33	33,000
Finland	421	421,000
France	5,815	5,815,000
Germany	3,655	3,655,000
Greece	277	277,000
Guatemala	22	22,000
Haiti	22	22,000
Honduras	11	11,000
Iceland	11	11,000
India	4,431	4,431,000
Indonesia	1,218	1,218,000
Iran	372	372,000
Iraq	67	67,000
Israel	50	50,000
Italy	1,994	1,994,000
Japan	2,769	2,769,000
Jordan	33	33,000
Lebanon	50	50,000
Luxembourg	111	111,000
Mexico	720	720,000
Netherlands	3,046	3,046,000
Nicaragua	9	9,000
Norway	554	554,000
Pakistan	1,108	1,108,000
Panama	2	2,000
Paraguay	16	16,000
Peru	194	194,000
Philippines	166	166,000
Sweden	1,108	1,108,000
Syria	72	72,000
Thailand	139	139,000
Turkey	476	476,000
Union of South Africa	1,108	1,108,000
United Kingdom	14,400	14,400,000
United States	35,168	35,168,000
Uruguay	116	116,000
Venezuela	116	116,000
Yugoslavia	443	443,000
Total	100,000	\$ 100,000,000

* Now "Sri Lanka"

CHAPTER 159

INDIAN IMMIGRANT LABOUR

Ordinances AN ORDINANCE TO AMEND THE LAW RELATING TO INDIAN IMMIGRANT LABOURERS.
 No's. 1 of 1923,
 26 of 1937,
 44 of 1942,
 22 of 1945,
 Act
 No. 9 of 1966.

[11 th April, 1923.]

Short title. 1. This Ordinance may be cited as the Indian Immigrant Labour Ordinance.

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 and the Estate Labour (Indian) Ordinance.

DEPARTMENT OF INDIAN IMMIGRANT LABOUR

Appointment of Commissioner of Labour and officers. 3. There may be appointed a Commissioner of Labour and also such Deputy Commissioners, medical officers, inspectors, assistant inspectors, and other officers as may be necessary for carrying out the provisions of this Ordinance, and such officers shall be deemed to be public servants within the meaning of the term as used in the Penal Code.

Commissioner to be head of department. 4. The Commissioner shall be head of the department of Labour, and shall be entrusted with the duty of carrying out the provisions of this or any other Ordinance relating to Indian immigrant labourers, and the measures adopted for the encouragement of the introduction of such immigrant labourers into Sri Lanka.

Annual report by Commissioner. 5. The Commissioner shall, not later than the thirty-first day of March in each year, present a report to the Minister dealing generally with the carrying out of the provisions of this Ordinance and dealing specially with such matters as he may consider to be worthy of particular attention, or as he may be directed to report upon by the general or specific instructions of the Minister.

6. There may be appointed an Emigration Commissioner for the purpose of supervising and controlling the recruitment of unskilled labourers in India with a view to their emigration to Sri Lanka.

Appointment of Emigration Commissioner.

7. (1) The Commissioner or any Deputy Commissioner, medical officer, inspector, or assistant inspector may at all reasonable times, with or without notice, enter upon any premises on which Indian immigrant labourers may be employed and inspect the condition—

Inspection.

- (a) of such labourers ;
- (b) of their housing accommodation; and
- (c) of the means provided for the medical treatment of such labourers.

(2) Any person refusing to allow the Commissioner, or any such Deputy Commissioner, medical officer, inspector, or assistant inspector, to enter and inspect as aforesaid, or hindering, molesting, or obstructing the Commissioner, or any such Deputy Commissioner, medical officer, inspector, or assistant inspector in or about any such entry or inspection, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

8. If the Government of India appoints any agent for the purpose of safeguarding the interests of Indian immigrant labourers in Sri Lanka, such agent shall have the

Agent of Government of India

powers conferred upon the officers mentioned in section 7 of this Ordinance, as if he had been expressly named therein, and may exercise all the other powers conferred upon him by this Ordinance, or any regulations made thereunder.

statement showing the position of the Fund shall be submitted by the Commissioner to the board for their information.

Board of Indian Immigrant Labour.

9. (1) The Minister may appoint any number of persons, not less than nine and not exceeding twelve, two of whom shall be selected from among Members of Parliament, to be members of the Board of Indian Immigrant Labour.

(2) Each such appointment shall be for a period not exceeding three years, except that in the case of a member who is a Member of Parliament, he shall vacate his seat on the board on his ceasing to be a Member of Parliament.

(3) Any member shall be eligible for reappointment.

(4) Any member may resign by notice in writing given to the Commissioner of Labour.

(5) The Commissioner shall be *ex officio* chairman of the board.

Meetings and duties of board.

10. (1) The board shall meet at such place as may be prescribed at least once in every quarter.

(2) The Commissioner may at any time summon a meeting of the board ; and on a requisition signed by any five members, it shall be his duty to summon a meeting of the board.

(3) The duty of the board shall be to advise the Commissioner in regard to matters arising under this Ordinance, but the board shall not exercise any administrative or executive functions.

FINANCE

Establishment of immigration Fund.

11. (1) For the purposes of this Ordinance there shall be established a fund, to be called "The Immigration Fund", which shall be administered by the Commissioner.

(2) As soon as may be after the termination of each quarter, a financial

12. The Fund shall be credited with— Formation of Fund.

(a) the surplus balance of the Tin Ticket Fund existing at the date on which the Immigration Fund shall come into operation;

(b) all fees received or recovered under the provisions of this Ordinance from employers in respect of the recruitment or employment of Indian immigrant labourers; and

(c) any moneys provided by Parliament in aid of immigration from India.

13. (1) The Fund shall be debited, save as is expressly provided under this Ordinance, with the whole cost of recruiting and introducing Indian immigrant labourers into Sri Lanka, and with the expenses of the department in carrying out the provisions of this Ordinance, and particularly, but without detracting from the general liability imposed by this section, with the cost of— Charges on Fund

(a) the recruitment of Indian immigrant labourers;

(b) the payment of any prescribed allowances to such labourers in the prescribed manner;

(c) the accommodation, subsistence, and transportation of such labourers, and their reception by the employer to whom they have been allotted ;

(d) the payment of any fees or charges imposed by the Government of India in respect of any persons emigrating from India;

(e) the repatriation of such labourers and their dependants as hereinafter provided;

(f) any prescribed allowance payable to any employer in respect of each such labourer recruited directly on his behalf by any licensed recruiter;

(g) the salary of the Emigration Commissioner and of all persons employed under him for the purpose of supervising and controlling the recruitment of labourers, and the expenses attendant upon such supervision and control;

(h) the payment of contributions to any provident fund or to any scheme for the grant of pensions or gratuities established for the benefit of those persons mentioned in paragraph (g) who, in addition to their salaries, receive no regular remuneration or allowance from any source other than the Fund in respect of any services rendered or duties performed in any matter relating to Indian immigrant labourers or incidental to the recruitment of such labourers;

(i) the payment of gratuities to persons who are proved to the satisfaction of the Commissioner to have received salaries from the Tin Ticket Fund during any period preceding the 11th day of April, 1923, and to have been employed in the service of the Government of Sri Lanka during any period commencing on that day;

[§ 2, 9 of 1966.]

(j) the payment in whole or in part as is determined by the Commissioner, of rent of buildings rented out by him for work in connexion with Indian immigrant labour and the payments for electricity consumed in such buildings and sanitary rates;

[§ 2, 9 of 1966.]

(k) stationery, office furniture and such other equipment as are considered necessary by the Commissioner for the proper working of the various sections of the department for work in connexion with Indian immigrant labour.

(2) The Fund shall not be debited with the salaries and allowances, if any, of the Commissioner and other officers of the department of Labour, but such salaries and allowances shall be paid out of moneys provided by Parliament.

(3) Nothing in paragraph (i) of subsection (1) shall be deemed to authorize the payment of a gratuity to any person except upon his retirement from the service of the Government of Sri Lanka and except in respect of the period during which he is proved to the satisfaction of the Commissioner to have been paid a salary from the Tin Ticket Fund.

In every case where a gratuity is to be paid to any person under paragraph (i) of subsection (1), the amount of the gratuity shall be fixed by the Minister.

14. (1) Every employer shall pay to the Commissioner, for the purposes of the Immigration Fund, such fees in respect of the recruitment or employment of Indian immigrant labourers as may be prescribed by regulations made by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Fees payable by employers.

(2) The amount of such fees shall be ascertained in the prescribed manner, and payment thereof shall be made at the prescribed times, and may be enforced by seizure and sale in the prescribed manner.

(3) 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.

15. Where any fees in respect of any Indian immigrant labourer for which, under the provisions of this Ordinance, any employer is liable shall remain unpaid for a period of one month after they shall have become payable, the employer shall be subject to a penalty at the rate of ten *per centum* on the amount of such fees, to be paid and recovered together with such fees.

Penalty for "non-payment of fees."

RECRUITING

16. (1) The Emigration Commissioner may in his absolute discretion, from time to time, issue licences to fit and proper persons entitling them to act as emigration agents

Licences to recruit.

for the purpose of assisting Indian immigrant labourers to emigrate to Sri Lanka, and all such agents shall be responsible to, and subject to the orders of, the Emigration Commissioner.

(2) There may be endorsed on the licence such conditions as may be prescribed.

(3) Such licences may be withdrawn by the Emigration Commissioner at his absolute discretion at any time.

Application to Commissioner for labourers.

17. (1) Any person who desires to obtain Indian immigrant labourers may send in to the Commissioner an application in the prescribed form specifying the number of labourers he requires.

(2) The Commissioner may in his discretion refuse to accept any such application, or may accept the same, subject to such conditions as he may impose.

INTRODUCTION OF LABOURERS INTO SRI LANKA

On entry into territorial waters Commissioner to take charge of immigrant labourers.

18. (1) Immediately upon the entry into territorial waters of any vessel containing Indian immigrant labourers, such labourers shall come, and thenceforward, until they shall have reached their place of employment, remain under the care and protection of the Commissioner and of the officers of his department appointed by him for the purpose.

(2) Any person who molests or interferes, or attempts to molest or interfere, with any such labourer, or induces or attempts to induce any such labourer to withdraw himself from the care or protection of the Commissioner, or of any of such officers, shall be guilty of a summary offence, and shall be liable on conviction thereof to a fine not exceeding one thousand rupees, or to imprisonment of either description for any period not exceeding six months, or to both.

Recruitment, transport, &c., of Indian immigrant labourers to be free of charge to labourers.

19. All expenses in respect of the recruitment, accommodation, subsistence, and transport of Indian immigrant labourers shall be paid out of the Immigration Fund, and it shall be the duty of the Commissioner to make all necessary and proper arrangements, free of charge to

the labourer, for his reception by his employer.

GENERAL

20. No contract of service between an employer and an Indian immigrant labourer shall be deemed to be for a period longer than one month from the making of such contract, and any contract of service entered into before such immigrant labourer leaves India for any longer period shall be void and of no effect whatsoever.

No contracts of hire to be for longer than one month.

21. No payment made in India by any recruiter to any person intending to emigrate from India to Sri Lanka to enable such person to pay off any debt before emigrating shall be recoverable in any court in Sri Lanka.

Advances by recruiters to immigrant labourers not recoverable.

22. (1) If the agent referred to in section 8 of this Ordinance shall, at any time within one year of the arrival in Sri Lanka of an Indian immigrant labourer who has been assisted to come to Sri Lanka at the cost of the Fund referred to in section 11, be satisfied that the return of such immigrant labourer to his home is desirable, either on the ground of the state of his health, or on the ground that the work which he is required to do is unsuitable to his capacity, or that he has been unjustly treated by his employer, or for any other sufficient reason, such immigrant labourer shall be repatriated, free of cost, to the place of recruitment, and the cost of so repatriating him shall be payable out of the said Fund.

Repatriation of Indian immigrant laborers

(2) If no such agent is appointed, the Commissioner shall perform the duties and exercise the powers conferred upon the agent under this section.

23. The Minister may make regulations for all purposes connected with the carrying out of the provisions of this Ordinance, and all such regulations shall, after publication in the Gazette, be as valid and have the same effect as if they had been contained in this Ordinance.

Minister may make regulations.

24. (1) In this Ordinance, unless the Interpretation context otherwise requires—

"Commissioner" means the Commissioner of Labour appointed under this Ordinance, and includes a Deputy Commissioner to the extent to which he is, by the authority of the Commissioner, empowered to exercise or perform any of the powers and duties of the Commissioner under this Ordinance;

"dependant" means any woman or child who is related to an Indian immigrant, or any aged or incapacitated relative of an immigrant;

"employer" means the proprietor of an estate and any person who employs any Indian immigrant labourer and includes the agent, superintendent, or manager of any such proprietor or person;

"Indian immigrant" means any Indian who emigrates or has emigrated to Sri Lanka, and includes any dependant of an immigrant;

"Indian immigrant labourer" means—

(a) any Indian immigrant who comes to Sri Lanka under an agreement to perform unskilled work for hire in Sri Lanka;

(b) any Indian immigrant who is assisted to come to Sri Lanka otherwise than by a relative, if he comes for the purpose or with the intention of performing unskilled work for hire in Sri Lanka;

"introduce", "introduced", "introduction", with reference to the immigration into Sri Lanka of an Indian immigrant labourer, means the bringing in of such labourer with a view to his being employed in unskilled work in Sri Lanka;

"unskilled work" includes engaging in agriculture, whether as a *kangany*, *sub-kangany*, or labourer ;

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether—

(a) any person is an immigrant; or

(b) any work is unskilled ; or

(c) any person has been assisted otherwise than by a relative,

within the meaning of this Ordinance, the question shall be determined by the Commissioner, and such determination shall be final.

CHAPTER 128

INSTITUTE OF ARCHITECTS

Law
No. 1 of 1976.

A LAW TO INCORPORATE THE SRI LANKA INSTITUTE OF ARCHITECTS.

[7th January. 1976.]

Short title.

1. This Law may be cited as the Sri Lanka Institute of Architects Law.

Incorporation
of the Institute.

2. From and after the 7th day of January, 1976, all persons as now are Fellows and Associates of the Ceylon Institute of Architects or shall hereafter be admitted as corporate members of the Sri Lanka Institute of Architects hereby constituted and incorporated, shall be (so long as they continue to be corporate members of the said Institute) members of and form a body corporate (hereinafter referred to as "the Institute"), with perpetual succession and a common seal, under the name of "The Sri Lanka Institute of Architects", and by that name the Institute shall and may sue and be sued. The Institute shall have full power and authority to have and use such seal, and alter, break and renew the same from time to time at its discretion, and shall have power to do all other acts and things incidental to or appertaining to a body corporate.

General objects
of the Institute,

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

- (a) to promote and advance the study, practice and application of, and research in, architecture and its kindred subjects and the arts and sciences connected therewith;
- (b) to organize, supervise and control the admission and the professional education and training of persons desiring to qualify as architects, to prescribe or approve courses of study for the qualifying examinations for membership of the Institute, and to conduct or provide for the conduct of such courses and examinations:

(c) to prescribe the qualifications and disqualifications for membership of the Institute, and the standards of professional conduct for members of the Institute and to secure the maintenance thereof;

(d) to protect and promote the interests, status, welfare, rights and privileges of the profession of architects in Sri Lanka, and the interests of the public in relation to that profession, and of persons desiring to qualify as architects;

(e) to establish, regulate and maintain libraries and pension, provident fund and benefit schemes for the benefit of members, officers and servants and their dependants, and to grant assistance financial or otherwise to societies of students;

(f) to do all such acts and things as are necessary for, or incidental or conducive to, the attainment of the above objects.

4. The Institute shall have the power—

Powers of the
Institute.

(a) to acquire, hold, take or give on lease or hire, mortgage, pledge, sell and exchange, or otherwise alienate, encumber or dispose of, any immovable or movable property for the purposes of the Institute;

(b) to enter into and perform or carry out, whether directly or through any officer or agent authorized in that behalf by the Institute, all such contracts or agreements as may be necessary for the attainment of the objects or the exercise of the powers of the Institute .

(c) to invest its funds, and to maintain current, deposit and savings accounts in any bank or banks;

to advance or lend, and to borrow, money for the purposes of the Institute in such manner and upon such security as the Institute may think fit;

(d) to levy fees, subscriptions and contributions in respect of membership, admission to membership, and admission to courses and examinations conducted by the Institute;

(e) to prescribe the terms and conditions of, and to supervise, control and regulate the engagement, training, transfer and dismissal of persons desiring to qualify as architects;

(f) to appoint, employ, transfer, dismiss and take other disciplinary action against officers and servants and to prescribe their terms and conditions of service;

generally, to do all such acts and things as are necessary for, or incidental or conducive to,; the carrying out or the attainment of the objects of the Institute.

Council of the Institute.

5. (I) The administration and management of the affairs of the Institute shall be vested in a Council which shall perform the functions and duties and may exercise the powers of the Institute under this Law.

(2) The Council shall consist of a president, senior vice-president, vice-president, the immediate past president, honorary secretary, honorary assistant secretary, honorary treasurer, honorary assistant treasurer, and such other number of members, not less than six and not more than eleven elected or appointed in accordance with the regulations of the Institute. The Council may by regulation provide for the election or appointment, from among the non-corporate members of the Institute, of not more than three other persons as members of the Council, to

represent such non-corporate members or any class thereof, with such rights and privileges as may be prescribed.

(3) Notwithstanding anything to the contrary in the preceding provisions of this section, the first Council shall consist of the persons who were, on the 7th day of January, 1976, the members of the Council of the Ceylon Institute of Architects.

(4) No act or proceeding of the Institute or of the Council shall be or shall be deemed to be invalid by reason only of the existence of any vacancy in the Council or any defect in the election or appointment of any member of the Council.

6. (1) The Council may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law, and in respect of any matter required by this Law to be prescribed or in respect of which regulations are authorized or required by this Law to be made, and may from time to time amend, add to, replace or repeal any such regulation.

Power to make regulations-

(2) Without prejudice to the generality of the powers conferred by the provisions of the preceding subsection, the Council may make regulations in respect of—

(i) the term of office of the Council, eligibility for and the mode of election or appointment thereto, the resignation or vacation of office and the filling of casual vacancies, the delegation of the powers and functions of the Council and the appointment of committees and boards, the annual report of the Council, and the adoption and use of the common seal;

(ii) the rights, powers, functions and duties of the officers of the Council;

(iii) the summoning and holding of meetings of the Council, the annual general meeting, other general meetings and special general meetings of the members of the Institute, the times, places, notice

and agenda of such meetings, the quorum thereof and the conduct of business thereat;

- (iv) the management of the property of the Institute and the custody of its funds;
- (v) the formulation of a code of professional conduct;
- (vi) the procedure of disciplinary inquiries, including the form of complaints, the appointment of disciplinary committees and the provision of legal assistance thereto, the framing of charges, the furnishing of explanations in reply, the issue of notices, the rights of parties to legal representations, the rules of evidence applicable thereto, the maintenance of the record of the proceedings thereat, and the form and content of the reports of disciplinary committees.

(3) Such regulations, or the amendment, addition, replacement or repeal thereof or thereto, shall not be valid, unless approved at a general meeting of the members- of the Institute by a two-thirds majority of the corporate members present and voting, held in accordance with the provisions of the regulations for the time being in force, and shall come into operation on the date of their publication in the Gazette.

(4) Notwithstanding anything to the contrary in the preceding provisions of this section, the regulations contained in the Schedule* hereto shall be, and shall be deemed for all purposes to be, the regulations of the Institute, and may be amended, added to, replaced or repealed as if they were regulations made under and in accordance with the preceding provisions of this section.

Membership of the Institute,

7. (1) The corporate members of the institute shall consist of Fellows and Associates:

Provided, however, that the Council may admit as non-corporate members (not having the right to vote of such classes and

with such rights, privileges and obligations as may be prescribed) persons not eligible for corporate membership of the Institute.

(2) Regulations may be made in respect of the qualifications and disqualifications (in addition to those prescribed by section 8 (1) of this Law) for membership, the mode of application for and admission to membership, the form and issue of certificates of membership, the maintenance of a register of members, the amounts and mode of payment of entrance fees, subscriptions, and contributions, and of any additional fees to be paid by practising members, the waiver and the reduction and the effect of non-payment thereof, the rights, privileges and duties of members, and the conditions of membership, including resignation and re-admission.

(3) Notwithstanding anything to the contrary in the preceding provisions of this section, all persons who were members of the Ceylon Institute of Architects immediately prior to the 7th day of January, 1976, shall be and shall be deemed for all purposes to be members of the same class or category, as the case may be, of the Institute, and shall continue so to be subject to the provisions of this Law and the regulations made hereunder.

8. (1) No person shall be admitted as a member of the Institute—

Disqualifi-
cation for
membership
and
disciplinary
powers and
procedure.

- (a) if he has been adjudged by a competent court, whether in Sri Lanka or elsewhere, to be of unsound mind;
- (b) if having been adjudged an insolvent or bankrupt by a competent court, whether in Sri Lanka or elsewhere, he has not been granted by such court a certificate to the effect that his insolvency or bankruptcy has arisen wholly or partly from unavoidable losses or misfortune;
- or
- (c) if he has been convicted by a competent court, whether in Sri Lanka or elsewhere, of any offence as shall be prescribed by regulation

* Schedule is omitted.

or of any offence, involving moral turpitude and punishable with imprisonment or similar punishment, and has not been granted a free pardon.

(2) The Council shall disenrol any member who becomes subject to any of the disqualifications specified in paragraphs (a), (b) and (c) of subsection (1) of this section:

Provided, however, that the Council may in its discretion re-admit such person if he ceases to be subject to such disqualification, or if in its opinion he has redeemed his character and is fit to practise the profession of an architect.

(3) The Council shall disenrol any member who in its opinion has been guilty of professional misconduct:

Provided, however, that the Council may, in lieu of disenrolment, reprimand such member or suspend him from membership for such period not exceeding one year as the Council may consider just and equitable in all the circumstances; and provided, further that the Council may in its discretion re-admit such person if in its opinion he has redeemed his character and is fit to practise the profession of an architect.

(4) The Council shall not disenrol, suspend from membership, or reprimand any member under the preceding provisions of this section, unless a disciplinary committee appointed by the Council has, after inquiry, made a report to the Council that such member has become subject to any of the aforesaid disqualifications or has been guilty of professional misconduct.

(5) (a) Where a disciplinary committee appointed by the Council is of the opinion that the evidence of any person or the production by any person of any document would be relevant to or necessary for such inquiry, it shall have the power by a notice in writing to require such person to attend at such time and place as shall be specified in such notice, in order to give evidence or to produce such document.

(b) A disciplinary committee appointed by the Council shall have power to administer oaths and affirmations to all persons who are required to give evidence before such Committee, and any person who wilfully gives false evidence upon oath or affirmation shall be guilty of an offence under this Law.

(c) Any person who, having been served with a notice under paragraph (a) of this subsection, fails or refuses without reasonable cause to attend or to give evidence or to answer any question or to produce any document referred to in such notice or to be sworn or affirmed, shall be guilty of an offence under this Law :

Provided, however, that such failure or refusal to attend or to give evidence or to answer any question or to produce any document or to be sworn or affirmed, shall not be an offence where such person is under or by virtue of the provisions of any written law, including the Evidence Ordinance, required or permitted to refrain from attending or giving evidence or answering such questions or producing such document or being sworn or affirmed.

(6) (a) The member in respect of whom a disciplinary committee has made such a report, may appeal against such report, or against the decision of the Council consequent upon such report, to the Court of Appeal.

(b) Every such appeal shall be made by a petition in writing bearing a stamp of ten rupees, setting out the matters of law relied upon, and naming the Institute as the respondent thereto, shall be lodged in the Registry of the Court of Appeal within twenty-one days of the date of communication of the decision of the Council, and shall be heard and determined by the Court of Appeal after such inquiry as it may deem necessary.

9. (a) The Council shall have power by regulation from time to time to prescribe, and to amend, add to, replace or repeal, a code of professional conduct.

Code of Professional Conduct.

(6) Pending the making of regulations under this section, for the purposes of this Law, " professional misconduct " means any

act or omission contrary to the code of professional conduct of the Ceylon Institute of Architects for the time being in force.

(c) ;The Council shall by regulation prescribe a Code of Professional Conduct within a period of six months after the 7th day of January, 1976; the provisions of section 6 (3) shall not apply thereto. Such Code shall come into operation on the date of the publication in the Gazette or on such subsequent date as may be specified therein.

Officers and servants of the Institute.

10. The Council may appoint a secretary and such other officers and servants as it may deem necessary.

Financial provisions.

11. (1) The Council shall cause to be kept proper books of account with respect to all sums of money received and expended by the Institute and the matters in respect of which such receipts and expenditure take place, and the assets and liabilities of the Institute, and all other matters necessary for showing the true state and condition of the funds of the Institute.

(2) The accounts of the Institute shall be subject to audit by a person or a firm qualified to practise as a Chartered Accountant in Sri Lanka, who shall be appointed for the purpose in each year by the Council, The provisions of section 132 of the Companies Ordinance* shall apply to such auditor or auditors as if the words "the Institute" were therein substituted for the words "the company" and "a company"; and the words "members and officers of the Council" for the words "directors and officers of the company".

(3) The annual report of the Council shall include the statement of accounts for the period of twelve months ending on the 31st day of December of that year, the balance sheet as at that date and the auditor's report thereon.

Use of titles.

12. (1) Every corporate member of the Institute shall be entitled to take and use the title "Chartered Architect". A Fellow shall also be entitled to use after his name the initials "F. I. A. (Sri Lanka)", and an Associate the initials "A. I. A. (Sri Lanka)".

* Repealed and replaced by the Companies Act, No. 17 of 1982.

(2) Any firm of Architects, each of the partners of which is a corporate member of the Institute, shall be entitled to take and use the title "Chartered Architects".

(3) Where one or more of the partners of a firm are corporate members of the Institute, the Council may permit such firm to take and use the title "Chartered Architect" or "Chartered Architects", as the case may be, as part of the description of such firm, provided that the remaining partners are members of other professions.

(4) Save as aforesaid, no person or body of persons shall take or use the title "Chartered Architect" or "Chartered Architects" or the initials "F. I. A. (Sri Lanka)", or "A. I. A. (Sri Lanka)", or use the same as the name or part of the name in any book, journal or other publication, dealing with architecture, design or the practice of architecture or the profession of architecture.

13. (I) Any person who contravenes any provision of this Law shall be guilty of an offence under this Law,

Offences and penalties.

(2) Any person who is guilty of an offence under this Law shall be liable, on conviction after trial before a Magistrate, 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 imprisonment and fine.

(3) No prosecution for any offence under this Law shall be instituted except by a member or officer of the Council authorized in writing for the purpose by the Council.

14. 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 309

INSTITUTE OF BANKERS OF SRI LANKA

Act No. 26 of 1979. AN ACT TO INCORPORATE THE INSTITUTE OF BANKERS OF SRI LANKA.

[25th April. 1979.]

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| Short title. | <p>1. This Act may be cited as the Institute of Bankers of Sri Lanka (Incorporation) Act.</p> | <p>4. (I) The affairs of the Institute shall, subject to the rules for the time being of the Institute, be administered by a Governing Board (hereafter in this Act referred to as the " Board ") consisting of—</p> | <p>Governing Board of the Institute.</p> |
| Incorporation of the Institute of Bankers of Sri Lanka. | <p>2. (1) The persons who on the 25th day of April, 1979, are the members of the Governing Body of the Bankers' Training Institute (Ceylon), such other persons as hereafter constitute the Governing Board of the Institute of Bankers of Sri Lanka and such other persons as are hereafter enrolled as members of the Institute of Bankers of Sri Lanka shall be a body corporate with the name Institute of Bankers of Sri Lanka (hereinafter in this Act referred to as the " Institute ").</p> <p>(2) The Institute shall have perpetual succession and a common seal and may sue and be sued in its corporate name.</p> | <p>(a) the Chairman who shall be a Deputy Governor of the Central Bank of Ceylon nominated by the Governor of that Bank;</p> <p>(b) the Vice-Chairman who shall be an Assistant to the Governor of the Central Bank of Ceylon nominated by the Governor of that Bank; and</p> <p>(c) ten other members of the Board—</p> <p>(i) two of whom shall be employees of the Bank of Ceylon nominated by that Bank ;</p> <p>(ii) two of whom shall be employees of the People's Bank nominated by that Bank;</p> <p>(iii) two of whom shall be nominated by banking institutions which are commercial banks other than the Bank of Ceylon and People's Bank, such two members being employees of such banking institutions;</p> <p>(iv) one of whom shall be nominated by the banking institutions which are not commercial banks by agreement amongst such banking institutions, such member being an employee of any such banking institution; and</p> | |
| Objects of the Institute. | <p>3. The objects of the Institute are—</p> <p>(a) to provide instruction and training for employees of banking institutions and for employees of the Central Bank of Ceylon in the study of the theory and practice of banking and of related subjects and for such purpose to provide all facilities including lectures, discussions and library facilities;</p> <p>(b) to conduct examinations and to issue certificates to those who are successful in such examinations ;</p> <p>(c) to facilitate and encourage discussions on matters of interest to bankers; and</p> <p>(d) to take such measures as may be desirable to further the interests of banking.</p> | | |

(v) three of whom shall be elected by the Fellows and Associates of the Institute from amongst the Fellows and Associates.

(2) For a period of two years from the 25th day of April, 1979, the governing body of the Bankers' Training Institute (Ceylon) on the 25th day of April, 1979, shall notwithstanding anything to the contrary in subsection (1) be the Board of the Institute.

Powers of the Institute.

5. Subject to the rules for the time being of the Institute, the Institute may—

- (a) do, perform and execute all such acts, matters and things as are necessary or desirable for the promotion or furtherance of the objects of the Institute;
- (b) for the purpose of carrying out the objects of the Institute, establish and maintain a fund, open and maintain any bank account, borrow or raise moneys with or without security, and employ such persons as may be necessary to carry out the work of the Institute ; and
- (c) acquire, hold, take or give on lease or hire, mortgage, pledge and sell or otherwise dispose of any movable or immovable property.

Liabilities of and debts due to the institute,

6. All debts and liabilities of the Bankers Training Institute (Ceylon) existing on the 25th day of April, 1979, shall be the debts and liabilities of the Institute and all debts due to and subscriptions and contributions payable to the Bankers' Training Institute (Ceylon) on that date shall be paid to the Institute.

Rules.

7. (1) The Board may, at a meeting of the Board summoned for the purpose and by a majority of not less than two-thirds of the whole number of its members (including those not present), make rules for or in respect of any or all of the following matters:—

- (a) the qualifications of persons for enrolment as members of the Institute; the manner of enrolment, and the maintenance of a register,

of the members ; the fees payable by the members ; the duration, renewal and termination of the membership; the classification and election of the members and the use of titles by them; the exercise of disciplinary control over the members;

- (b) the nomination and election of the members of the Board ; the term of office, powers, functions and duties of the members of the Board; summoning and holding of meetings of the Board ; quorum for, procedure to be adopted at, and the conduct of business of, such meetings;
- (c) the summoning and holding of meetings of the Institute; quorum for, the procedure to be adopted at, and the conduct of business of, such meetings;
- (d) the admission of students for the qualifying examination and for course of instruction provided by the Institute and the exercise of disciplinary control over them ; fees payable for, the conduct of, and the syllabuses for, such examinations and courses ; the issue of certificates to students who pass the examinations of the Institute ; grant of assistance, financial or otherwise, to students of the Institute;
- (e) the management of the property of the Institute ; the custody, maintenance and audit of its funds;
- (f) remuneration of employees of the Institute and the exercise of disciplinary control over them;
- (g) the custody, application and authentication of the seal of the Institute; and
- (h) all matters connected with or incidental to the aforesaid matters.

(2) The rules of the Bankers' Training Institute (Ceylon) in force on the 25th day

of April, 1979, shall be deemed to be the rules of the Institute made under subsection (I).

bank" have the same meanings as in the Monetary Law Act; and

Interpretation.

8. In this Act, unless the context otherwise requires

"banking institution " and " commercial

"Central Bank of Ceylon" means the Central Bank of Ceylon established under the Monetary Law Act.

CHAPTER 122

INSTITUTE OF CHEMISTRY

Act AN ACT TO INCORPORATE THE INSTITUTE OF CHEMISTRY, CEYLON.
 No. 15 of 1972.

[28th April. 1972.]

- Short title. **1.** This Act may be cited as the Institute of Chemistry, Ceylon, Act.
- Incorporation of the Institute. **2.** From and after the 28th day of April, 1972, such and so many persons as now are corporate members of the Institute of Chemistry, Ceylon, as successor to the Chemical Society of Ceylon, (so long as they continue to be corporate members) shall by virtue of these presents be members of and form a body corporate by the name of the " Institute of Chemistry, Ceylon ", by which name they shall have perpetual succession and a common seal and with full power and authority to use, alter, vary, break and renew such seal from time to time at their discretion, and by the same name shall and may sue and be sued in all courts and in all manner of actions and suits and shall have the power to do all other matters and things incidental or appertaining to a body corporate.
- General objects of the Corporation. **3.** The general objects for which the Corporation is constituted are hereby declared to be—
- (a) to promote and advance the science of chemistry and its applications in Sri Lanka;
 - (b) to advise the Government, and give counsel to public corporations, local bodies and other institutions on all matters connected with the application of chemistry to the progress and development of the country;
 - (c) to promote the acquisition, dissemination and interchange of chemical knowledge by—
 - (i) providing a forum for the presentation of original communications and discussions thereon;
 - (ii) establishing and maintaining libraries,
 - (iii) publishing matters of interest to the profession of chemistry; and
 - (iv) any other means;
 - (d) to promote education in chemistry at all levels;
 - (e) to promote, encourage and foster original research in chemistry ;
 - (f) to assess the eligibility of candidates for admission to the various grades of membership;
 - (g) to conduct or provide for the conduct of the qualifying examinations for all grades of membership of the Institute and to promote, provide or approve, courses of study for such examinations;
 - (h) to conduct or provide for the conduct of examinations for the award of diplomas, certificates, and other distinctions, in such branches of chemistry as the Institute may from time to time deem necessary and to prescribe, approve or provide courses of study for such examinations;
 - (i) to ensure the maintenance of high standards in the professional activities and the general conduct of its members;

- (j) to establish liaison with other scientific and professional organizations;
- (k) to establish and enhance the status of the profession of chemistry in Sri Lanka;
- (l) to take any other measures that may be necessary for the attainment of all or any of the objects of the Institute.

Institute under this Act or the by-laws, shall be held, used and applied by the Institute in accordance with the by-laws for the furtherance of its objects and subject to such by-laws, the Institute shall have the power from time to time to buy, sell, grant, convey, devise, assign, exchange or otherwise dispose of or mortgage any such property and invest its funds in such manner as may be necessary or expedient for the furtherance of its objects.

Council of the Institute.

4. The affairs of the Institute shall, in accordance with by-laws in force for the time being, be administered by a Council.

7. The Institute shall be able and capable in law to charge—

Power to charge fees and subscriptions.

Power to make by-laws.

5. (1) It shall be lawful for the Institute from time to time at a general meeting of the Institute and by the requisite majority of the members voting, to make by-laws for the management of the affairs of the Institute and the accomplishment of its objects.

(a) such fees, as the Institute may deem reasonable, for admission to any course or examination conducted by the Institute;

(b) fees for the election of persons to any class of membership of the Institute; and

(2) The by-laws set out in the Schedule* to this Act shall be deemed to have been made under subsection (1) and shall, subject to the provisions of subsection (3), be for all purposes the by-laws of the Institute.

(c) such subscriptions and fees, as the Institute may deem reasonable, in respect of the services by the Institute.

(3) The by-laws may be altered, added to, amended or rescinded at a general meeting of the Institute by the requisite majority of the members voting thereat.

8. All debts and liabilities of the Institute, existing at the 28th day of April, 1972, shall be paid or discharged by the Corporation, and all debts due: and subscriptions, contributions and fees payable to the said Institute shall be paid to the Corporation.

Debts due from and payable to the Institute.

Power to acquire property and raise money.

6. (1) The Institute shall be able and capable in law to acquire by purchase, gift, devise, bequest, exchange or in any other manner and hold any movable or immovable property and to dispose of any such property acquired or held by the Institute.

9. The Institute shall have the power to appoint an Admissions and Ethical Practices Committee and to take such other steps as may be found necessary from time to time for the maintenance of professional standards and discipline among persons practising or acting as chemists in Sri Lanka.

Admissions and Ethical Practices Committee.

(2) The Institute shall have the power to borrow or raise money necessary for the furtherance of its objects and to create, execute, grant or issue any mortgages, bonds or obligations to receive such money.

(3) All property, movable and immovable, acquired or held by the Institute and all moneys paid to or received by the

10. Nothing in this Act contained shall prejudice or affect the rights of the Republic of Sri Lanka or of any body corporate or of any other persons except such as are mentioned in this Act and those claiming by, from or under them.

Saving of the rights of the Republic and others.

* Schedule is omitted.

CHAPTER 119

INSTITUTE OF CHARTERED ACCOUNTANTS

Acts
Nos. 23 of 1959,
16 of 1964,
Law
No. 34 of 1975.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN INSTITUTE OF CHARTERED ACCOUNTANTS OF SRI LANKA AND OF A COUNCIL OF THE INSTITUTE WHICH SHALL BE RESPONSIBLE FOR THE MANAGEMENT OF ITS AFFAIRS AND FOR THE REGISTRATION AND CONTROL OF AND THE MAINTENANCE OF PROFESSIONAL STANDARDS AND DISCIPLINE BY MEMBERS OF THE INSTITUTE IN SRI LANKA AND FOR MATTERS CONNECTED WITH OR INCIDENTAL TO THE MATTERS AFORESAID.

[15th December, 1959.]

Short title.

1. This Act may be cited as the Institute of Chartered Accountants Act.

ESTABLISHMENT OF INSTITUTE AND MEMBERSHIP

Establishment of Institute of Chartered Accountants of Sri Lanka.

2. There shall be an Institute with the name "The Institute of Chartered Accountants of Sri Lanka" (hereinafter referred to as "the Institute").

Incorporation of Institute.

3. (1) The persons for the time being enrolled as members of the Institute shall be a body corporate with the name "The Institute of Chartered Accountants of Sri Lanka".

(2) The Institute shall have perpetual succession and a common seal and may sue or be sued in its corporate name and may hold, acquire and dispose of any property, movable or immovable.

Eligibility for membership of Institute. [§ 2, Law 34 of 1975.]

4. (1) Subject to the provisions of section 15, the following persons shall be eligible for membership of the Institute:—

(i) a person who passes the qualifying examinations for membership of the Institute to be conducted by the Council under this Act and completes a scheme of practical training approved by the Council and for such period as may be prescribed by the Council:

Provided, however, that such practical training shall not be restricted to service under a practising accountant;

(ii) a person who is a member of any society or institute of accountants by whatever name called and approved by regulations made by the Council as being in the opinion of the Council an association of equivalent status to the -Institute:

Provided, however, that notwithstanding the approval of any such society or institute the Council may declare that any class or description of members of the society or institute shall not be eligible for membership of the Institute; and

(iii) a person who was, at the 15th day of December, 1959, registered as an Auditor under the Companies (Auditors) Regulations, 1941.

(2) Any regulations made by the Council prescribing practical training for the purpose of paragraph (i) of subsection (1) may contain such special provisions as the Council may deem expedient declaring that a person who had commenced prior to the 15th day of December, 1959, or the 29th day of August, 1975, and completed or completes, whether prior to or after the aforesaid dates, training as an articled clerk under a practising accountant for such period as may be specified in the regulations shall be deemed to have completed the training prescribed for the purposes of the aforesaid paragraph (i).

(3) Any regulations made by the Council by which any society or institute is approved for the purposes of paragraph (ii) of subsection (1) may provide, as a condition

of such approval, that a member of such society or institute shall not be eligible for membership of the Institute of Chartered Accountants of Sri Lanka, unless he has undergone such training as approved by the Council for such period as may be specified.

Fee for membership of Institute.

5. (1) Subject to the provisions of section 15 a person who is eligible for membership of the Institute shall be enrolled as a member upon payment to the Council of a fee of one hundred and twenty-five rupees or such other amount as may be substituted therefor by regulation. Such fee shall be paid to the president of the Council or, if the Council has not been constituted, to the Registrar of Companies.

(2) The enrolment of a person as a member of the Institute shall be effective until the thirty-first day of December of the year of enrolment; and the enrolment may be renewed annually upon payment to the Council of the prescribed fee in respect of each such renewal.

Classification of members as Fellows and Associates.

6. (1) The members of the Institute shall be divided into two classes consisting respectively of Fellows and Associate Members.

[§ 3, Law 34 of 1975.]

(2) Any member of the Institute who satisfies the Council that he has been in continuous practice as an accountant for not less than five years, whether before or after the 15th day of December, 1959, or partly before and partly after that date, or, who has completed ten years as a member of the Institute, shall on application made to the Council in that behalf on or before December 31, 1985, and on payment to the Council of a prescribed fee be registered by the Council as a Fellow of the Institute and shall be entitled to use the addition " F.C.A. " after his name to indicate that he is a Fellow.

[§ 3, Law 34 of 1975.]

(3) Any member of the Institute who is not eligible for registration by the Council as a Fellow of the Institute in terms of subsection (2) shall be eligible for registration by the Council as a Fellow of the Institute on passing the Fellowship Examination to be conducted by the Council and on application made to the Council in that behalf and on payment to

the Council of a prescribed fee. Such member shall upon registration by the Council as a Fellow of the Institute be entitled to use the addition " F.C.A. " after his name to indicate that he is a Fellow.

(4) Every member of the Institute who is not registered under subsection (2) or subsection (3) as a Fellow of the Institute shall be an Associate Member and shall have the right to use the addition " A.C.A. " after his name to indicate that he is an Associate Member.

(5) Every member of the Institute shall be entitled to take and use the title " Chartered Accountant".

THE COUNCIL

7. (1) There shall be a Council of the Institute, in this Act referred to as "the Council".

Constitution of Council.

(2) The Council shall consist of a president, a vice-president and ten other members appointed or elected as hereinafter provided.

[§ 5,16 of 1964.]

(3) During the period of ten years commencing on the 15th day of December, 1959, the president, the vice-president and the other members of the Council shall be appointed by the Minister, and of the members so appointed at least six shall be persons who are members of the Institute, of whom not more than four shall be practising accountants,

[§ 5,16 of 1964.]

(4) After the expiration of the period of ten years referred to in subsection (3), the president and the vice-president of the Council shall be elected by the members of the Institute from themselves, and the remaining members of the Council shall consist of—

[§ 5, 16 of 1964.]

(a) six members appointed by the Minister, and

(b) four members elected by the members of the Institute from among its members, of whom not more than three shall be practising accountants:

Provided, however, that—

- (i) where the Minister fails to appoint, within three months after the expiration of the period of ten years referred to in subsection (3), one or more of the members specified in paragraph (a) of this subsection, or
- (ii) where the Minister fails to appoint, within three months after the death of, or vacation of office by, a member of the Council appointed under paragraph (a) of this subsection, another person in place of such member,

the members of the Institute may elect from themselves such number of persons as may be necessary to make up the number of members specified in paragraph (a) of this subsection.

(5) The elections under subsection (4) shall be conducted in accordance with such provisions in that behalf as may be made by the Minister by Order published in the Gazette.

Term of office of members of the Council.

8. (1) Every member of the Council shall, unless he earlier vacates his office, hold office for a period of two years from the date of his appointment or election :

Provided, however, that the members appointed under subsection (3) of section 7 and holding office at the expiration of a period of ten years from the date referred to in that subsection shall thereupon vacate office.

[§ 6, 16 of 1964.]

(2) A member of the Council shall vacate office by resignation therefrom or if he ceases to be a member of the Institute.

(3) In the event of the death of, or vacation of office by, a member of the Council, another person shall, in accordance with the provisions of section 7, be appointed or elected, as the case may be, in place of such member, and shall hold office during the remaining part of the term of office of such member.

(4) Any member of the Council who vacates office by effluxion of time shall be eligible for reappointment or re-election as a member.

9. (1) The Council shall be charged with the administration and management of the Institute and shall be responsible for carrying out the provisions of this Act and the functions and duties conferred or imposed upon the Council by this Act.

General powers and duties of Council.

(2) It shall be the duty of the Council— [§ 4, Law 34 of 1975.]

(a) to conduct or provide for the conduct of the qualifying examinations for membership of the Institute and to prescribe or approve courses of study for such examinations ;

(b) to supervise and regulate the engagement, training and transfer of articled clerks who have entered into articles of agreement on or before the 29th day of August, 1975;

(c) to supervise and regulate the registration of students and the courses of practical training for such registered students for such period as may be prescribed by the Council;

(d) to specify the class of persons who shall have the right to train articled clerks who have entered into articles of agreement on or before the 29th day of August, 1975, and to specify the circumstances in which any person of that class may be deprived of that right;

(e) to fix the maximum amount of the premia or fees to be charged from articled clerks who have entered into articles of agreement on or before the 29th day of August, 1975, and the conditions subject to which such fees are to be charged ;

(f) to maintain and publish a register of members of the Institute and a register of persons authorized to practise in Sri Lanka as Chartered Accountants;

(g) to secure the maintenance of professional standards among members of the Institute and to take such steps as may be necessary to acquaint them with the methods and practices necessary to maintain such standards;

- (h) to maintain a library of books and periodicals relating to accountancy and to encourage the publication of such books in Sri Lanka;
- (i) to carry out and encourage research in Sri Lanka in the subjects of accountancy, audit and other related subjects and generally to promote the education, training and advancement of the registered students and secure the well-being and advancement of the profession of accountants;
- (j) to approve the scheme of practical training to be followed by the registered students; and
- (k) to require any institution to provide information to the Council with regard to facilities available for training students in accounting and audit.

published in the Gazette and copies thereof shall be furnished to the Minister and to each member of the Institute.

(6) As soon as convenient after the 15th day of December, 1959, the Government shall donate to the Council a sum of two hundred thousand rupees.

(7) The Minister in charge of the subject of Finance may from time to time decide that a temporary loan shall, subject to such conditions as he may determine, be made to the Council from the Consolidated Fund in order to enable the Council to meet any current liabilities pending the receipt of income by the Council. Any sum which is to be lent to the Council under this subsection is hereby charged on the Consolidated Fund :

Provided, however, that the total amount of such loans to the Council outstanding at any time shall not exceed ten thousand rupees.

Officers of the Council.

10. The Council may appoint a secretary and such other officers and servants as it may deem necessary.

Financial provisions.

11. (1) The Council shall establish and maintain a fund under its management and control into which shall be paid all moneys received by the Council and out of which shall be met all expenses and liabilities incurred by the Council in carrying out its powers, functions and duties under this Act.

(2) The Council may invest moneys in the fund in any securities issued or guaranteed by the Government of Sri Lanka or in any other securities approved by the Minister.

(3) The Council may maintain an account in any bank or banks in Sri Lanka.

(4) The annual accounts of the Council shall be subject to audit by a member of the Institute (not being a member of the Council) in practice as a Chartered Accountant in Sri Lanka who shall be appointed for the purpose each year by the Council.

(5) As soon as may be after the end of each financial year of the Council, the accounts for the preceding year shall be

12. (1) The Council may make regulations for or in respect of any matter required or authorized by this Act to be prescribed or of any matter relating to or connected with its powers, functions and duties under this Act or the proper exercise, discharge or performance thereof.

Power to make regulations.

(2) Without prejudice to the generality of the provisions of subsection (1), the Council may make regulations in respect of all or any of the following matters:—

(a) the summoning and holding of meetings of the Council, the times and places of such meetings and the conduct of business thereat;

(b) the management of the property of the Council, the custody of its funds and the maintenance and audit of its accounts;

(c) the election or appointment by the Council of standing or other committees, the powers, functions and duties of such committees, and the conditions subject to which such powers may be exercised and such functions and duties performed;

- (D) the powers, functions and duties of the secretary and other officers of the Council and the salaries, fees, allowances and conditions of service of such officers and servants;
- (e) the establishment and regulation of a provident fund for the benefit of the officers and servants and their dependants or nominees, and the contributions to be made by the Council and by such officers and servants to such Fund ;
- (f) the exercise of disciplinary control over officers and servants of the Council;
- (g) the time and manner of the payment of enrolment, registration and renewal fees, the termination of membership upon failure to pay renewal fees and the conditions of restoration to membership in such cases;
- (h) the fees to be paid to the Council by students admitted to the qualifying examinations or for courses of instruction provided by the Council, and the engagement and remuneration of lecturers and examiners; and
- (i) the grant of assistance, whether financial or otherwise, to societies of students.

- (c) if having been adjudged an insolvent or 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 from unavoidable losses or misfortunes;
- (d) if he has been convicted by a competent court, whether in Sri Lanka or elsewhere, of any offence involving moral turpitude and punishable with imprisonment or similar punishment and has not been granted a free pardon.

(2) The Council shall disenrol any person who is a member of the Institute, if he becomes subject to any disqualification mentioned in paragraph (b) or paragraph (c) or paragraph (d) of subsection (1) of this section: [§ 11,16 of 1964.]

Provided, however, that such disenrolment shall not prevent the Council from subsequently re-enrolling such person if satisfied that he is fit to practise the profession of an accountant and auditor. [§11, 16 of 1964.]

16. (1) The Council may disenrol any individual who is a member of the Institute, if satisfied that he is unfit to practise the profession of an accountant and auditor by reason that he has been guilty of professional misconduct. Disenrolment for professional misconduct. [§ 12, 16 of 1964.]

(2) The disenrolment of the registration of any person under subsection (1) shall not prevent the Council from subsequently re-enrolling that person, if satisfied that he is fit to practise the profession of an accountant and auditor. [§12,16 of 1964.]

[§ 10, 16 of 1964.] QUALIFICATIONS FOR ENROLMENT, AND PROVISIONS AS TO DISENROLMENT, ETC.

General dis-qualifications, [§ 11, 16 of 1964.] ***15.** (1) No person shall be enrolled as a member of the Institute-

- (a) unless he has attained the age of twenty-one years and is either a citizen of Sri Lanka or has ordinarily resided in Sri Lanka for a period of not less than three years;
- (b) if he has been adjudged by a competent court to be of unsound mind;

17. (1) The Council shall not, under section 16, disenrol any person, unless a disciplinary committee has, after inquiry, made a report to the Council that the person has been guilty of professional misconduct. Inquiries by disciplinary committees. [§13,16 of 1964.]

(2) Where the Council has reasonable cause to believe, whether upon complaint made to it or otherwise, that any person who is a member of the Institute has been guilty of professional misconduct, the [§ 13, 16 of 1964.]

* Sections 13 and 14 are repealed by Act No. 16 of 1964.

Council may appoint a disciplinary committee for the purpose of holding an inquiry into the conduct of that person.

(3) The provisions of the First Schedule* to the Act shall apply in relation to the constitution of and the procedure to be followed by disciplinary committees appointed under this section, the proceedings at inquiries held by such committees and the powers exercisable by such committees.

(4) The Minister may, upon the recommendation of the Council, by Order published in the Gazette, amend or alter or add to or revoke any or all of the provisions of the First Schedule.*

(5) The provisions of the First Schedule* for the time being in force shall be as valid and effectual as if they were herein enacted.

Suspension in lieu of disenrolment. [§ 14, 16 of 1964.]

18. In any case where the Council is by section 16 empowered to disenrol any person from membership of the Institute, the Council may, in lieu of exercising that power, suspend the person from membership for such period as the Council may deem fit.

Appeal to the Court of Appeal from decisions of the Council under section 16 or section 18.

19. (1) Any person aggrieved by a decision of the Council under section 16 or section 18 may appeal against that decision to the Court of Appeal.

(2) Every appeal under subsection (1) against a decision—

(a) shall be made by petition in writing bearing a stamp of one rupee ;

(b) shall be preferred within ten days after the date of that decision.

Meaning of "professional misconduct".

20. (1) For the purposes of this Act, "professional misconduct" means any act or omission which is for the time being specified in the Second Schedule* to this Act.

(2) The Minister may, upon the recommendation of the Council, by Order published in the Gazette, amend or alter or add to any or all of the provisions of the Second Schedule+.

* First and Second Schedules are omitted.
+ Second Schedule is omitted.

RESTRICTIONS ON PRACTICE AS ACCOUNTANTS

21. (1) No person who is a member of the Institute or is a partner of any such firm of accountants as is referred to in subsection (3) of section 22 shall practise as an accountant unless he is the holder of a certificate to practise which is for the time being in force: Restrictions on practising as accountant. [§ 15, 16 of 1964.]

Provided, however, that such certificate to practise shall not be issued to a member of the Institute unless such person has had at least a period of two years' practical training in a firm of practising accountants after he has passed one of the qualifying examinations prescribed by the Council. [§ 5, Law 34 of 1975.]

(2) Every certificate to practise shall be issued by the Council upon payment of the prescribed fee; different fees may be prescribed in respect of Fellows, Associate Members, and partners of any such firm of accountants as is referred to in subsection (3) of section 22 respectively. [§ 15,16 of 1964.]

(3) Every certificate to practise shall be in force until the thirty-first day of December of the year of issue of that certificate, and may from time to time be renewed upon payment of the fee prescribed as provided in subsection (2).

(4) Where each of the partners in a firm of accountants is the holder of a certificate to practise, no such certificate shall be required to authorize the firm to practise as accountants.

(5) The preceding provisions of this section shall not come into operation until such date as may be fixed by the Minister by Order published in the Gazette.

(6) Where all or any of the partners of a firm of accountants are not citizens of Sri Lanka and are not qualified to be members of the Institute by reason of the fact that they have not-ordinarily resided in Sri Lanka for a period of not less than three years, then, if the number of partners who are not such citizens and are not so qualified is increased by the admission to that firm of a partner who is not a citizen of Sri Lanka [§ 15,16 of 1964.]

and who has not ordinarily resided in Sri Lanka for a period of not less than three years, that firm shall not practise as accountants.

RESTRICTIONS AS TO USE OF TITLES, ETC.

Restrictions as to use of titles conferred under this Act.

22. (1) No person, not being a member of the Institute, shall take or use the title "Chartered Accountant", or any addition mentioned in section 6.

(2) Notwithstanding anything in subsection (1) any firm of accountants, each of the partners of which is a member of the Institute, may take and use the title "Chartered Accountants".

(3) Notwithstanding anything in subsection (1), any firm of accountants all or any of the partners of which are not citizens of Sri Lanka and are not qualified to be members of the Institute by reason of the fact that they have not ordinarily resided in Sri Lanka for a period of not less than three years may, if that firm was in practice on the ninth day of February, 1959, take and use the title "Chartered Accountants".

[§ 16. 16 of 1964.]

MISCELLANEOUS PROVISIONS

Offences and penalties.

23. (1) Any person who contravenes any provision of this Act shall be guilty of an offence and shall be liable, on conviction after summary trial before a Magistrate, to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(2) Any person who is declared by any rule in the First Schedule* to be guilty of an offence under this Act shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding five hundred rupees.

(3) No prosecution for any 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.

Meaning of "practise"

24. (1) For the purposes of this Act, a person shall be deemed to practise as an accountant if, in consideration of

* First Schedule is omitted.

remuneration received or to be received, and whether by himself or in partnership with any other person, he—

(a) engages himself in the practice of accountancy or holds himself out to the public as an accountant; or

(b) offers to perform or performs service involving the auditing or verification of financial transactions books, accounts or records, or the preparation, verification, or certification of financial accounting and related statements; or

(c) renders professional service or assistance in or about matters of principle or detail relating to accounting procedure or certification of financial facts or data; or

(d) renders any other service which may be declared by the Council by regulation to be service constituting practice as an accountant.

(2) A person who is the salaried employee of the Government or of any one employer shall not, by reason only that he does any act referred to in subsection (1) in his capacity as such employee, be deemed to practise as an accountant.

25. Notwithstanding anything in the preceding sections of this Act, the following provisions shall apply in relation to the first enrolment of members of the Institute and the Constitution of the first Council to hold office under this Act:—

Transitional arrangements.

(1) As soon as may be after the 15th day of December, 1959, the Minister shall in terms of subsection (3) of section 7 appoint a person to be the president of the Council.

(2) The president shall, by notice published in the Gazette and in at least two daily newspapers circulating in Sri Lanka, call upon persons eligible for membership of the Institute to make application therefor.

- (3) The president shall, subject to the provisions of sections 5 and 15, enrol as members of the Institute all persons eligible for such membership who make application in that behalf within the period of three months immediately succeeding the 15th day of December, 1959.
- (4) The names of the persons enrolled under paragraph (3) of this section shall be presented to the Minister
- for the purpose of enabling him to make the other appointments for which provision is made in subsection (3) of section 7.
- (5) As soon as may be after all appointments are made, the Minister shall by Order published in the Gazette specify the date on which the first Council established under this Act shall commence to hold office.

CHAPTER 111

INSTITUTE OF CORPORATION LAWYERS

Law
No. 33 of 1978,
Act
No. 3 of 1980.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF AN INSTITUTE TO BE CALLED THE INSTITUTE OF CORPORATION LAWYERS FOR THE PURPOSE OF PROVIDING THE SERVICES OF LAWYERS TO PUBLIC CORPORATIONS AND LOCAL AUTHORITIES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st November, 1978.]

Short title.

1. This Law may be cited as the Institute of Corporation Lawyers Law.

Establishment of the Institute of Corporation Lawyers.

2. (1) There shall be established an Institute which shall be called the Institute of Corporation Lawyers (hereinafter referred to as the "Institute").

(2) The Institute 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.

Objects of the Institute.

3. The objects of the Institute shall be to provide public corporations and local authorities the services of attorneys-at-law—

- (a) to give legal advice ;
- (b) to appear, plead or act for and on behalf of such corporations and authorities before any judicial or quasi-judicial tribunal or other body or person ;
- (c) generally, in accordance with the provisions of this Law, to act for and on behalf of any such corporation or authority in respect of or in connexion with any legal matter.

Powers of the Institute.

4. For the purpose of carrying out its objects, the Institute shall have the following powers ;—

- (a) to charge fees, in accordance with the provisions of this Law, for services rendered or provided by the Institute ;
- (b) to enter into and perform, either directly or through any officer or agent authorized in that behalf, all such contracts or agreements as may be necessary ;
- (c) to train or provide for the training of members of the legal staff of the Institute in specialized fields of law and ancillary subjects on such terms and conditions as may be prescribed ;

- (d) to acquire, hold, take or give on lease or hire, mortgage, pledge or sell or otherwise dispose of, any movable or immovable property ;
- (e) to employ such officers and servants as may be necessary ;
- (f) to engage the services of attorneys-at-law for or in connexion with any matter or proceeding ;
- (g) to make rules in respect of the administration of the affairs of the Institute ; and
- (h) to do all other things which are necessary for or conducive or incidental to the carrying on of its objects.

5. (1) The affairs of the Institute shall be administered by a Board of Management (hereinafter referred to as the "Board") which shall consist of the following members, who shall be appointed by the Cabinet of Ministers on the recommendation of the Minister :—

Board of Management of the Institute. [2,3 of 1980.]

- (a) the Chairman, who shall be an attorney-at-law of not less than ten years' standing ; and
- (b) four other members who shall be attorneys-at-law of not less than seven years' standing.

(2) The members of the Board may act notwithstanding a vacancy among the members thereof or any irregularity in the appointment of any member.

6. (1) The Chairman of the Board shall, if present, preside at all meetings of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members to preside at such meeting.

Who shall preside at meetings of the Board. [3, 3 of 1980.]

(2) Any question for decision at any meeting of the Board, shall be decided by the vote of the majority of the members present. In the case of an equality of votes the member presiding shall have a second or casting vote.

Quorum for meetings of the Board and regulation of procedure.

7. The quorum for any meeting of the Board shall be three members. Subject to the other provisions of this Law, the Board may regulate its own procedure in regard to its meetings and the transaction of business at such meetings.

Institute, the provisions of subsection (2) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

Members of the Board to be full-time officers and to be remunerated.

8. The members of the Board shall, in addition to their duties as such members, be full-time officers of the Institute collectively and individually responsible for its efficient administration and shall be paid such remuneration from the funds of the Institute at such rates as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

(3) Where any officer in the public service is permanently appointed to the staff of the Institute, the provisions of subsection (3) of section 13 of the Transport Board Law shall, *mutatis mutandis*, apply to and in relation to him.

Minister may give directions to the Board.

9. In the exercise, discharge and performance of its powers, functions and duties, the Board shall be subject to and act in accordance with such general or special directions as the Minister may, from time to time, issue.

(4) Where any person has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service to the Institute by that person, shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

Employees of the Institute.

10. (1) The employees of the Institute shall consist of such number of officers and servants as the Board may consider necessary for the proper and efficient conduct of the business of the Board.

13. The Institute may appoint to the legal staff of the Institute on such terms and conditions, as may be determined by the Minister, such of the employees of public corporations as are attorneys-at-law considered suitable for employment in the service of the Institute.

Employees in, public corporations may be employed by the Institute.

(2) All employees of the Institute shall be appointed by the Board with the concurrence of the Minister;

14. Disciplinary control over the employees of the Institute other than those appointed under section 12 shall be exercised by the Board after receiving the recommendation of the Minister.

Disciplinary control of employees.

Provided that in the case of the appointment of the non-legal staff of the Institute the Minister may in writing addressed to the Board dispense with the requirement of obtaining the concurrence of the Minister.

15. Every member of the Board and other officer employed by the Institute who is an attorney-at-law shall, in his capacity as such attorney-at-law and only in such capacity, be entitled on the instructions of any public corporation or local authority to appear, plead or act in any court, tribunal or other institution established by law for the administration of justice and before any other body or person for or on behalf of—

Board members, &c. entitled to appear in courts.

Legal staff of the Institute.

11. All members of the Board and other employees of the Institute who are attorneys-at-law shall constitute the legal staff of the Institute.

Appointment of public officers to the staff of the Institute.

12. (1) At the request of the Institute, 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 Institute for such period as may be determined by the Institute with like consent, or be permanently appointed to such staff.

(a) such public corporation or local authority ; or

(b) any employee of such public corporation or local authority in any action, proceeding or matter instituted by or against such employee in respect of any act or thing done by him for or on behalf of such corporation or local authority ; or

(2) Where any officer in the public service is temporarily appointed to the staff of the

(c) any person or body, whether corporate or unincorporate, where by any written law or agreement any public corporation is entitled to represent, to act on behalf of or to take over the defence of such person or body.

and the value of such property as may be transferred to the Institute by any Government Department by an order, or with the consent of the Minister in charge of that Department.

(2) The capital of the Institute may be increased, from time to time, by such amount as may be authorized by an Appropriation Act or by resolution of Parliament and such amount shall be paid or made available to the Institute by the Government by way of grant or loan on such terms and conditions as may be determined by the Minister in charge of the subject of Finance.

19. (1) The charges that may be made by the Institute for prescribed services rendered by it shall be fixed, and may be revised, from time to time, by Order made by the Minister in consultation with the Board and published in the Gazette.

Charges that may be made by the Institute.

(2) The charges that may be made by the Institute for services which are not prescribed services shall be fixed, and may be revised from time to time, by an officer authorized in that behalf by the Institute.

20. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the Institute.

Application of the provisions of the Public Corporations (Financial Control) Act. Financial year of the Institute.

21. The financial year of the Institute shall be the calendar year,

22. No suit or prosecution shall lie against the Institute for any act which in good faith is done or purported to be done by the Institute under this Law :

Protection of the Institute against action taken under this Law.

Provided, however, that the protection given by this section shall not extend to any negligent act or omission on the part of such Institute or any officer or servant in the course of the performance of his duties under this Law or in any other capacity as an attorney-at-law,

23. All officers and servants of the Institute shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Institute deemed to be public servants.

24. The Institute shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

The Institute deemed to be a scheduled institution within the meaning of the Bribery Act.

Board may engage services of attorneys-at-law not employed by Institute.

16. (1) The Board may, on the instructions of a public corporation or local authority or where any special circumstance so requires or in respect of any matter which may be generally or specially prescribed, seek the advice or engage the services of any attorney-at-law, not on the Board or employed by the Institute and not being a public officer, or any foreign lawyer, whether in Sri Lanka or abroad, to advise or to represent any such public corporation or local authority or its employee or any person or body referred to in section 15 (c) before any court, tribunal or other institution established by law for the administration of justice or before any other body or person.

(2) The right of any foreign lawyer to appear before any court, tribunal or institution or other body or person shall be determined in accordance with any law, regulation or practice for the time being governing the right of audience before the Supreme Court or other judicial tribunal in Sri Lanka.

Legal staff. &c. of Institute to have right of audience in any court, &c.

17. Every member of the legal staff of the Institute or any attorney-at-law whose services are engaged by the Institute under section 16 shall have the same right of audience before any court, tribunal or institution or other body or person as is enjoyed by any other attorney-at-law, but shall not by reason of any official designation or his employment by the Institute have any further right or privilege, nor shall any official designation given to such member or attorney-at-law for any official purposes be notified to such court, tribunal or institution or other body or person, or be recorded in the proceedings thereof.

Capital of the Institute.

18. (1) The initial capital of the Institute shall be one million rupees and such capital shall consist of grants or loans given or made available by the Government out of the Consolidated Fund on such terms and conditions as may be determined by the Minister in charge of the subject of Finance,

Regulations.

25. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law and in respect of all matters required by this Law to be prescribed or in respect of which regulations are authorized by this Law to be made.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or 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 laid before Parliament for approval. 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. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

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

" foreign lawyer " means any duly qualified lawyer who is not a citizen of Sri Lanka or an attorney-at-law of the Supreme Court of Sri Lanka or both ;

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

"public officer " includes any officer or servant employed by or under the Government of Sri Lanka.

* Subsequently repeated and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 121

INSTITUTE OF ENGINEERS

Act AN ACT TO INCORPORATE THE INSTITUTION OF ENGINEERS, CEYLON.
 No. 17 of 1968.

[31st May, 1968.]

Shorttitle. 1. This Act may be cited as the Institute of Engineers, Ceylon, Act.

Incorporation of the Institute. 2. From and after the 31st day of May, 1968, such and so many persons as now are enrolled as corporate members of the Institution of Engineers, Ceylon, (so long as they continue to be corporate members) shall by virtue of these presents be members of and form a body corporate by the name of the " Institute of Engineers, Ceylon ", by which name they shall have perpetual succession and a common seal and with full power and authority to use, alter, vary, break and renew such seal from time to time at their discretion. And by the same name shall and may sue and be sued in all courts and in all manner of action and suits and shall have power to do all other matters and things incidental or appertaining to a body corporate.

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

- (a) to promote and advance the science and practice of engineering in all its branches in Sri Lanka;
- (b) to help in the acquisition and interchange of technical knowledge by reading of original communications and discussions thereon, by establishing and maintaining technical libraries, publications on matters of professional interest and any such other means;
- (c) to promote the study of engineering and to encourage original research with a view to facilitate the Scientific and economic

development and the conservation of the resources of Sri Lanka;

- (d) to conduct examinations qualifying for membership of the Institute to test the competence of persons engaged in engineering and to grant certificates of competence;
- (e) to assess the eligibility of candidates for admission to the various grades of membership;
- (f) to regulate the professional activities and to assist in maintaining high standards in the general conduct of its members;
- (g) to give the Government and other public bodies and others the facilities for conference with and ascertaining the views of engineers as regards matters directly or indirectly affecting engineering;
- (h) to encourage and assist in the settlement of disputes by arbitration and to nominate arbitrators and umpires;
- (i) to foster co-ordination with similar institutes in Sri Lanka and other countries in furthering the objects of the Institute;
- (j) to do all such other acts and things as are incidental or conducive to the attainment of the above objects or any of them.

4. The affairs of the Institute shall, in accordance with the by-laws in force for the time being, be administered by the Council consisting of the president, the vice-presidents and other members elected by the Institute in accordance with the by-laws.

Power to make by-laws.

5. (1) It shall be lawful for the Institute from time to time in general meeting of the Institute and by the requisite majority of the members voting to make by-laws for the management of the affairs of the Institute and the accomplishment of its objects.

(2) The by-laws set out in the Schedule to this Act shall be deemed to have been made under subsection (1) and shall subject to the provisions of subsection (3) be for all purposes the by-laws of the Institute.

(3) The by-taws in the Schedule* or any of them, or any other by-laws made by the Institute under subsection (1) may be altered, added to, amended or rescinded in general meeting of the Institute by the requisite majority of the members voting thereat.

Power to acquire property and raise money.

6. (1) The Institute shall be able and capable in law to acquire by purchase, gift, devise, bequest, exchange or in any other manner and hold any movable or immovable property and to dispose of any such property acquired or held by the Institute.

(2) The Institute shall have the power to borrow or raise money for the purpose of the Institute and for the purpose of securing money to create, execute, grant or issue any mortgages, bonds or obligations and to pay off and re-borrow the money secured thereby or any part or parts thereof and to invest its funds in such manner as may be necessary or expedient for the furtherance of its objects.

Debts due from and payable to the Institution.

7. All debts and liabilities of the Institution of Engineers, Ceylon, existing at the date of coming into operation of this Act shall be paid or discharged by the Corporation, and all debts due and subscriptions, contributions and fees payable to the said Institution of Engineers, Ceylon, shall be paid to the Corporation.

Annual grant by Government to the Institute.

8. The Government may donate to the Institute annually an adequate grant to pursue its aims and objects.

9. All property movable and immovable acquired or held by the Institute and all moneys paid to or received by the Institute under this Act or the by-laws shall be held, used and applied by the Institute in accordance with the by-laws for the furtherance of its objects and subject to such by-laws, the Institute shall have the power from time to time to buy, sell, grant, convey, devise, assign, exchange or otherwise dispose of or mortgage any such property and invest its funds in such manner as may be necessary or expedient for the furtherance of its objects.

Application of property, moneys, ifcc.

10. The Institute shall be able and capable in law to charge—

Power to charge fees and subscriptions.

(a) such fees, as the Institute may deem reasonable, for admission to any examination conducted by the Institute;

(b) fees for the election of persons to any class of membership of the Institute; and

(c) such subscriptions and fees from members of the Institute, as the Institute may deem reasonable, in respect of the services provided by the Institute.

11. The Institute shall have the power to appoint disciplinary committees and to take such other steps as may be found necessary from time to time for the control of professional standards and for the management of discipline among persons practising or acting as engineers in Sri Lanka.

Disciplinary committies.

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic of Sri Lanka 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.

* Schedule is omitted.

CHAPTER 120

INSTITUTE OF PERSONNEL MANAGEMENT

Law
No. 24 of 1976.

A LAW TO INCORPORATE THE INSTITUTE OF PERSONNEL MANAGEMENT, CEYLON.

[5th November, 1976.]

Short title. **1.** This Law may be cited as the Institute of Personnel Management, Sri Lanka, Law.

Incorporation of the Institute of Personnel Management, Ceylon. **2.** From and after the 5th day of November, 1976, such and so many persons as now are corporate members of the Institute of Personnel Management, Ceylon (hereinafter referred to as "the Institute") or shall hereafter be admitted corporate members of the corporation hereby constituted, (so long as they continue to be corporate members) shall be and become a corporation with perpetual succession under the style and name of "The Institute of Personnel Management, Sri Lanka" (hereinafter referred to as "the Corporation") and by that name may sue and be sued in all courts, with full power and authority to have and to use a common seal and to change and alter the same at its will and pleasure.

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

- (a) to promote and develop the principles, techniques and practice of personnel management in Sri Lanka;
- (b) to help in the acquisition and interchange of knowledge by reading of communications and discussions thereon, by establishing and maintaining libraries, publications on matters of professional interest and any such other means;
- (c) to promote the study of personnel management and to encourage research into the best means and

methods of applying the principles and techniques of personnel management in the interests of the industrial and economic development of Sri Lanka;

- (d) to conduct examinations qualifying for membership of the Corporation to test the competence of persons engaged in personnel management and to grant certificates of competence;
- (e) to assess the eligibility of candidates for admission to the various grades of membership;
- (f) to regulate the professional activities and to assist in maintaining high standards in the general conduct of its members;
- (g) to give the Government and other institutions both in the public and private sectors the facilities for conference with and ascertaining the views of personnel managers as regards matters directly or indirectly affecting personnel management;
- (h) to encourage and assist in the settlement of disputes between the Institute and its members by arbitration and to nominate arbitrators and umpires;
- (i) to foster co-ordination with similar professional institutes in Sri Lanka and other countries in furthering the objects of the Corporation; and
- (j) to do all such other acts and things as are incidental or conducive to the attainment of the above objects or any of them.

General powers of the Corporation.

4. The Corporation shall have the power to do, perform and execute all such acts, matters, and things whatsoever, as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation.

property shall be held by the Corporation for the purposes of this Law and subject to the by-laws in force for the time being of the Corporation, with full power' to sell, mortgage, lease, exchange or otherwise dispose of the same.

8. The Corporation shall be able and capable in law to charge—

Power to charge fees and subscriptions.

(a) such fees, as the Corporation may deem reasonable, for admission to any examination or study course conducted by the Corporation;

(b) fees for the election of persons to any class of membership of the Corporation; and

(c) such subscriptions and fees from members of the Corporation as the Corporation may deem reasonable in respect of the services provided by the Corporation.

Management of the affairs of the Corporation.

5. (1) The affairs of the Corporation shall, subject to the by-laws in force for the time being of the Corporation, be administered by a Council consisting of the president, the vice-president and such other persons as may be provided for in such by-laws and elected in accordance therewith.

(2) The first Council of the Corporation shall be the Council of the Institute holding office on the 5th day of November, 1976.

9. The Corporation shall have the power to appoint disciplinary committees and to take such other steps as may be found necessary from time to time for the management of discipline among persons practising or acting as personnel managers or personnel consultants in Sri Lanka.

Disciplinary committees.

By-laws of the Corporation.

6. (1) It shall be lawful for the Corporation, from time to time, at any general meeting and by the requisite majority of the members voting, to make by-laws, not inconsistent with the provisions of this Law, for the management of the affairs of the Corporation and the accomplishment of its objects. Such by-laws when made may, at a like meeting and in like manner, be altered, added to, amended or rescinded,

(2) The by-laws of the Institute in force on the 5th day of November, 1976, shall be deemed to be the by-laws of the Corporation made under this section and may be altered, added to, amended, rescinded or replaced by by-laws made under this Law.

(3) The members of the Corporation shall be subject to the by-laws of the Corporation.

10. All debts and liabilities of the Institute 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, contributions and fees payable to the Institute shall be paid to the Corporation for purposes of this Law.

Debts due by and payable to the Institute.

11. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the president and the secretary, or such other person as they may respectively appoint for the purpose, 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.

Corporation may hold property movable and immovable.

7. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such

12. Nothing in this Law contained shall prejudice or affect the rights of the Republic of Sri Lanka 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 124

INSTITUTE OF SURVEYING AND MAPPING

Act
No. 21 of 1969.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF AN INSTITUTE OF SURVEYING AND MAPPING AND FOR MATTERS CONNECTED THEREWITH.

[25th June, 1969.]

Short title.

1. This Act may be cited as the Institute of Surveying and Mapping Act.

(3) After the expiry of the period referred to in subsection (1), the affairs of the Institute shall be administered and its functions shall be discharged by such officer of the Survey Department as is appointed for the purpose by the Surveyor-General. The officer so appointed shall administer the affairs of the Institute and discharge its functions subject to the general or special directions of the Surveyor-General.

Establishment of Institute of Surveying and Mapping.

2. There shall be established an institute which shall be called the Institute of Surveying and Mapping, hereafter in this Act referred to as " the Institute ".

Functions of the Institute.

3. The functions of the Institute shall be—

- (a) to provide instruction in surveying, levelling and mapping;
- (b) to hold examinations for the purpose of ascertaining the persons who have acquired proficiency in surveying, levelling and mapping;
- (c) to grant diplomas to persons who have pursued approved courses of study in the Institute and who have passed the examinations of the Institute.

5. (1) For the purpose of advising the person who under this Act is responsible for administering the affairs of the Institute and for discharging its functions, there shall be a Board to be called and known as the Advisory and Co-ordinating Board.

Advisory and Co-ordinating Board.

(2) (a) During the period commencing on the 25th day of June, 1969, and ending on February 20, 1971, the Advisory and Co-ordinating Board shall consist of—

- (i) the Government Project Representative;
- (ii) the Director of Foreign Aid or his representative;
- (iii) the Director-General of Education or his representative;
- (iv) the Resident Representative of the United Nations Development Programme in Ceylon or his representative;
- (v) the Project Manager;
- (vi) the Project Co-Manager; and
- (vii) not more than two members appointed by the Minister from persons who have wide experience

Administration of the affairs of the Institute.

4. (1) During the period commencing on the 25th day of June, 1969, and ending on February 20, 1971, the affairs of the Institute shall be administered and the functions of the Institute shall be discharged by the Government Project Representative in consultation with the Project Manager.

(2) The Government Project Representative may assign to the Project Co-Manager the functions and duties to be carried out by him. In the discharge of his functions and duties, the Project Co-Manager shall be subject to the general direction and control of the Government Project Representative.

and knowledge of matters relating to surveying and levelling and the functions of the Institute and who are not practising surveyors or levellers.

(b) After the expiry of the period referred to in paragraph (a) of this subsection, the Advisory and Co-ordinating Board shall consist of—

- (i) the Surveyor-General,
- (ii) the officer of the Survey Department appointed by the Surveyor-General to administer the affairs of the Institute and to discharge its functions,
- (iii) the Director-General of Education or his representative,
- (iv) not more than two members appointed by the Minister from persons who have wide experience and knowledge of matters relating to surveying and levelling and the functions of the Institute and who are not practising surveyors or levellers.

(3) The members of the Advisory and Co-ordinating Board shall elect a chairman from among its members.

(4) The Minister may, without assigning a reason, remove from office a member of the Advisory and Co-ordinating Board appointed under sub-paragraph (vii) of paragraph (a) of subsection (2) or under sub-paragraph (iv) of paragraph (b) of that subsection.

(5) Subject to the provisions of subsection (6) the Advisory and Co-ordinating Board may regulate the procedure in regard to the meetings of the Board and the transaction of business at such meetings.

(6) The person referred to in sub-paragraph (iv) of paragraph (a) of subsection (2) and the person referred to in sub-paragraph (v) of that paragraph may speak but shall not be entitled to vote on any question coming up for decision at a meeting of the Advisory and Co-ordinating Board.

6. There shall be a fund of the Institute into which shall be paid— Fund of the Institute.

- (a) any gifts or donations received for the purposes of the Institute;
- (b) all moneys voted out of the Consolidated Fund for the purposes of the Institute, and
- (c) any other moneys that the Minister may direct to be so paid.

7. No disbursement shall be made out of the fund except on the authority of the Government Project Representative in consultation with the Project Manager. Disbursement of moneys of the fund.

8. (1) The accounts of the Institute shall be maintained by the Project Co-Manager in such manner as the Treasury may direct. Accounts of the Institute.

(2) The accounts of the Institute shall be annually audited by the Auditor-General if necessary with the assistance of a qualified auditor.

9. The land, buildings, furniture and fixtures and any other property used for the maintenance of the Survey Department's Training School for Surveyors at Diyatalawa shall be loaned to the Institute of Surveying and Mapping on such terms and conditions and for such period as may be determined by the Minister. Loan to the Institute of the Government Training School for Surveyors.

10. (1) The Government Project Representative shall submit to the Minister a report of the work of the Institute and the audited statement of accounts as soon as may be after the completion of each financial year. Annual report.

(2) The report of the Government Project Representative together with the statement of accounts and the comments of the Auditor-General thereon shall be tabled in Parliament.

11. In this Act—

" Government Project Representative" means the Surveyor-General;

Interpretation.

" Project Co-Manager " means the person appointed by the Government, in consultation with the Executive Agency namely, the United Nations Organization, as Co-Manager of the Project known as the Institute of Surveying and Mapping, Diyatatawa; and

" Project Manager " means the person appointed by the United Nations Organization, in consultation with the Government, as Leader of the International Team assisting the Project known as the Institute of Surveying and Mapping, Diyatalawa.

CHAPTER 472

INSTITUTE OF SINHALA CULTURE

AN ACT TO INCORPORATE THE INSTITUTE OF SINHALA CULTURE.

[15th October. 1980.]

Act
No. 42 of 1980.

Short title. **1.** This Act may be cited as the Institute of Sinhala Culture (Incorporation) Act.

(b) Non-corporate members, namely—

(i) Student members, and

(ii) Juvenile members.

Incorporation of the Institute of Sinhala Culture. **2.** From and after the date of commencement of this Act, such and so many persons as now are corporate members of the Institute of Sinhala Culture (hereinafter referred to as "the Institute") or shall hereafter be admitted corporate members of the Corporation hereby constituted, (as long as they continue to be corporate members) shall be and become a body corporate with perpetual succession under the style and name of "The Institute of Sinhala Culture" (hereinafter referred to as "the Corporation") and by that name may sue and be sued in all courts, with full power and authority to have and to use a common seal and to alter the same at its pleasure.

4. The general objects for which the Corporation is constituted are hereby declared to be— General objects of the Corporation.

(a) the preservation and development of Sinhala Culture;

(b) the promotion and instilment of an interest and appreciation of Sinhala Culture among youth; and

(c) the maintenance and management of a Trust for the furtherance of the activities of the Corporation.

Membership of the Corporation.

3. (1) The terms and conditions of membership of the Corporation and the voting rights and other privileges of the members shall be in accordance with the rules in force for the time being of the Corporation.

5. The Corporation shall have the power to do, perform and execute all such acts, matters, and things whatsoever, as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation. General powers of the Corporation.

(2) The classes of membership shall be as follows:—

(a) Corporate members, namely—

(i) Honorary members,

(ii) Life members,

(iii) Associate members,

(iv) Ordinary members ; and

6. (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 office-bearers as are elected in accordance with the rules for the time being of the Corporation. Management of the affairs of the Corporation

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

(3) The rules of the Institute 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.

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

Board of Trustees.

7. (1) There shall be a Board of Trustees consisting of such persons as may be elected in accordance with the rules in force for the time being of the Corporation. The Board of Trustees shall be responsible for the administration, management and control of the Trust heretofore established by the Institute. The Board of Trustees shall exercise, perform and discharge its powers, duties and functions in accordance with the rules in force for the time being of the Corporation.

9. All debts and liabilities of the Institute existing at the time of the coming into operation of this Act shall be paid by the Corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the Institute, shall be paid to the Corporation for the purposes of this Act.

Debts due by and payable to the Institute.

(2) The first Board of Trustees of the Corporation shall be the Board of Trustees of the Institute holding office at the time of the coming into operation of this Act.

10. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the said Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

Rules of the Corporation.

8. (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members, and by a majority of votes, to make rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the Committee of Management, the Board of Trustees 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).

11. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Committee of Management, who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

How seal of the Corporation is to be affixed

(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 at least two-thirds of the voting membership voting at a general meeting.

12. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 127

INSTITUTE OF VALUERS

Law
No. 33 of 1975.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF AN INSTITUTE OF VALUERS OF SRI LANKA AND OF A COUNCIL OF THE INSTITUTE WHICH SHALL BE RESPONSIBLE FOR THE MANAGEMENT OF ITS AFFAIRS AND FOR THE CONTROL OF THE MAINTENANCE OF PROFESSIONAL STANDARDS AND DISCIPLINE BY MEMBERS OF THE INSTITUTE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[3rd January, 1977.]

Short title.

1. This Law may be cited as the Institute of Valuers of Sri Lanka Law.

Establishment of the Institute of Valuers of Sri Lanka.

2. (1) There shall be established an institute with the name "The Institute of Valuers of Sri Lanka" (hereinafter referred to as the "Institute").

(2) The members of the Institute shall consist of corporate and non-corporate members admitted and enrolled in accordance with the rules or regulations made hereunder.

Incorporation of the Institute.

3. From and after the 3rd day of January, 1977, such and so many persons as are for the time being enrolled as corporate members of the Institute, shall by virtue of these presents be members of and form a body corporate (hereinafter referred to as the "Corporation") by which name they shall have perpetual succession and a common seal and with full power and authority to use, alter, vary, break and renew such seal from time to time at their discretion, and by the same name shall and may sue and be sued in all courts and in all manner of actions and suits and shall have power to do all other matters and things incidental or appertaining to a body corporate.

Objects of the Corporation.

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

- (a) to promote and foster the study of the science of valuation;
- (b) to promote and foster the study of property management both urban and agricultural;

(c) to promote and foster the study of such branches of the law as are necessary for or relevant to the practice of valuation;

(d) to promote the acquisition, dissemination and interchange of knowledge relating to or connected with the science of valuation by—

- (i) providing a forum for the presentation of papers and for holding discussions thereon,
- (ii) establishing and maintaining libraries,
- (iii) publishing matters of interest to persons engaged in the practice of valuation, and

(iv) any other means;

(e) to conduct, or provide for the conduct of, qualifying examinations for membership of the Institute, and to provide or approve courses of study for such examinations, and to engage and remunerate lecturers and examiners;

(f) to award diplomas, certificates and other distinctions to persons, who have pursued courses of study provided or approved by the Institute and who have passed the examinations of the Institute;

(g) to award scholarships, exhibitions, bursaries and medals and other prizes;

(h) to assess the eligibility of candidates for admission to the various grades of membership;

- (i) to regulate the general conduct and the professional activities of persons practising as valuers in order to ensure the maintenance of high standards in the profession;
 - (j) generally to protect and promote the interest and welfare and the rights and privileges of the profession of valuers in Sri Lanka and of the public in relation to that profession;
 - (k) to express the opinion of the members of the Institute on legislative and other matters affecting the profession of valuers;
 - (l) to enter into co-operation with organizations in or outside Sri Lanka having allied interests and functions and with professional organizations in Sri Lanka on matters of common interest;
 - (m) to advise and communicate with public authorities on matters relating to valuation;
 - (n) to undertake arbitration to determine any disputes on valuation which may be referred to the Institute; and
 - (o) to take such other measures, including the establishment and maintenance of data banks, as may be necessary for the benefit or advancement of those who practise valuation in Sri Lanka.
- (c) to borrow or raise money with or without security for any of the purposes of the Institute ;
 - (d) to employ such officers and servants as may be necessary to carry out the work of the Institute and to pay their salaries, gratuities and allowances;
 - (e) to pay allowances and gratuities and to make *ex gratia* payments to officers and servants of the Institute upon their retirement and to the widows and orphans of such officers and servants;
 - (f) to establish a fund for the grant of financial assistance to the widows and orphans of corporate members and honorary members;
 - (g) to establish a fund for the grant of financial assistance to corporate members and honorary members who are incapacitated ;
 - (h) to charge fees for admission of persons to any grade of membership and for the renewal of such membership;
 - (i) to charge fees for the admission of persons to the qualifying examinations and the courses of study provided by the Institute;
 - (j) to utilize the moneys of the Institute to meet all expenditure incurred in carrying out its objects, in remunerating its employees and in the exercise of its powers and duties;
 - (k) to invest such moneys of the Institute as are not immediately required for the purposes of the Institute in any such securities and in such manner as the Corporation may deem fit; and
 - (l) to take all such steps as may be necessary or desirable for the promotion of all or any of the objects of the Institute.

Powers of the Corporation, 5. The Corporation may exercise all or any of the following powers :—

- (a) to acquire by purchase, gift, bequest, exchange or in any other manner and hold any movable or immovable property and to take or give on lease or mortgage, sell, grant, exchange or otherwise dispose of any such property acquired or held by the Institute ;
- (b) to construct, purchase, maintain and repair anything required for the purposes of the Institute ;

How the seal of the Corporation is to be affixed.

6. The seal of the Corporation shall be in the safe custody of the Council, and shall not be affixed to any instrument whatsoever except with the authority of the Council previously obtained, and in the presence of the president and the honorary general secretary or such other member of the Council, as the Council may appoint, 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.

Application and fee for membership of the Institute.

7. Every application and the fee for enrolment as a member of the Institute shall be in accordance with the provisions set out in Schedule A hereto.

Council of the Institute.

8. (1) There shall be a Council of the Institute in this Law referred to as "the Council" which shall, subject to the rules or regulations made under section 17, administer the affairs of the Institute and be responsible for exercising and carrying out the powers, functions and duties of the Institute under this Law.

(2) The Council shall consist of the following members:—

- (a) the president, two vice-presidents, and honorary general secretary, an honorary assistant general secretary, and honorary general treasurer, all of whom shall be elected by the corporate members from among themselves at a session of the Institute;
- (b) two members elected from each of the following grades of corporate members, namely Fellow, Graduate, Associate and Licentiate;
- (c) two corporate members appointed by the Minister;
- (d) the person holding office for the time being as Chief Valuer;
- (e) the person holding office for the time being as the Municipal Assessor of the Municipal Council of Colombo;
- (f) the person who last held the post of president;

Provided, however, that in the case of the first Council, the president and other members of the Council specified in paragraphs (a) and (b) of this subsection shall be appointed by the Minister and shall hold office unless removed earlier, till the effluxion of the period for which they are appointed. In order that the Minister may so appoint, the enrolling officer shall, as soon as may be after the expiry of the date fixed by the Minister under paragraph 1 (1) (a) of Schedule A hereto, furnish to the Minister a list of persons enrolled in the different grades of corporate members.

9. (1) Every member of the Council shall, unless he earlier vacates his office or is removed by the Minister, hold office —

Term of office of members of the Council.

(a) if he is an elected member of the Council until the election of new members under section 18 ;

(b) if he is a member appointed by the Minister under paragraph (c) of subsection (2) of section 8, until such time another member is appointed in his place by the Minister.

(2) Every member of the Council other than the members referred to in paragraphs (d) and (e) of subsection (2) of section 8, shall vacate office —

(a) by resignation therefrom by letter addressed to the Council, such resignation not taking effect until the Council intimates to such member that the resignation has been accepted; or

(b) upon absence from three consecutive meetings of the Council without the permission of the Council; or

(c) upon ceasing to be a member of the Institute; or

(d) on expiry of his term of office; or

(e) if appointed by the Minister, on his removal from office by the Minister.

(3) Every member of the Council appointed to replace a member who has ceased to be a member of the Council before the expiry of his term of office shall, unless he earlier resigns, dies or otherwise vacates office, hold office for the unexpired period of the term of office of the member whom he succeeds.

(4) Subject to the provisions of subsection (2) of section 11, every member of the Council who vacates office by effluxion of time shall be eligible for reappointment or re-election as a member.

10. (1) The meetings of the Council shall be held once at least in every three months.

(2) The quorum for any meeting of the Council shall be ten members of the Council.

(3) The president of the Council or in his absence the vice-president, or in the case of the absence of both, a member chosen by the members present shall preside at a meeting of the Council.

(4) The meetings of the Council shall be convened by the president of his own motion or upon a requisition in writing made in that behalf by not less than five members of the Council.

(5) Seven clear days' notice in writing shall be given to the members of every meeting of the Council, the time and place of such meeting and the business to be brought up before it being specified in such notice which shall be sent through the post under registered cover to each member addressed to the last known place of residence of such member.

(6) The person presiding for the time being at any meeting of the Council may with the consent of the majority of members present adjourn that meeting.

(7) Subject to the provisions of subsection (8) any question which arises at any meeting of the Council shall be decided by a majority of the members present and in the case of an equality of votes, the member presiding at the meeting shall have a second or casting vote.

(8) A member of the Institute shall not be disenrolled or suspended except upon a resolution passed at a meeting of the Council by not less than two-thirds of the total number of members of the Council in office.

(9) The Council shall cause minutes to be made of the proceedings of every meeting of the Council in books kept for that purpose and the minutes of such proceedings shall be signed by the member presiding at the next succeeding meeting, and the minutes so signed shall be prima facie evidence of the matters set out in such minutes.

(10) No act or proceeding of the Council shall be invalid by reason only of the existence of any vacancy among the members of the Council or any defect in the appointment of a member thereof.

11. (1) No person shall be eligible for election to any of the following offices of the Council, unless such person has the requisite qualifications in respect of such office as set out hereunder —

- (a) president or vice-president, unless he is enrolled as a corporate member in the grade of a Fellow; or
- (b) honorary general secretary or honorary general treasurer unless he is enrolled as a corporate member in any grade not below that of a graduate member; or
- (c) honorary assistant general secretary Unless he is enrolled as a corporate member in any grade not below that of an Associate member;
- (d) a member of the Council representing any grade of the corporate membership unless he is enrolled in that grade.

(2) Any person who has held office as a member of the Council for three consecutive periods shall not be eligible for re-election until the expiry of two years from the date he ceased to hold office.

12. (1) The nomination of any person as a candidate for election for any office of the Council shall be by means of a nomination paper signed by two corporate members who shall be the proposer and seconder respectively certifying that they recommend the election of the candidate;

Qualifications for election of office-bearers, &c., of the Council.

Procedure for election of office-bearers, &c., of the Council.

Meetings of the Council,

Provided, however, that in the case of a member seeking election as a representative member of any grade of corporate members, the proposer and seconder of that candidate shall be two corporate members enrolled in that grade.

(2) Every such nomination paper shall be signed by the candidate and be in such form as may be provided for the purpose by the Council.

(3) The nomination paper made in accordance with the preceding provisions of this section shall be delivered to the honorary general secretary at least four weeks before the date fixed for the meeting.

(4) A person nominated as a candidate for election to membership of the Council shall cease to stand so nominated if he is found to be disqualified for nomination.

(5) Where more than one candidate stand nominated for election it shall be decided by secret ballot.

(6) The votes shall be counted by two members appointed by the Council from corporate members who are not candidates for election.

(7) If no candidate stands duly nominated for election to any office of the Council at any session the holder of that office for the time being shall, notwithstanding anything to the contrary in this Law, continue to hold that office until a successor is elected at the next session.

(8) The election of the members of the Council shall not be held at a session unless at least two-fifths of the total number of corporate members who are qualified to enjoy the rights and privileges of membership are present. If the number of members present is less than the required number, the elected members of the Council for the time being shall, notwithstanding anything to the contrary in this Law, continue to hold office until their successors are elected at the next session.

President.

13. The president of the Council shall be the chief executive officer of the Institute. He shall preside at all meetings of the Council and of the Institute. He may delegate any of his functions and duties to a vice-president.

14. The honorary general secretary of the Council shall conduct all correspondence on behalf of the Council and the Institute, keep minutes of all meetings of the Council and of the Institute, send out notices of meetings of the Council and the Institute, prepare the annual reports of the Council and the Institute, maintain the register of members of the Council and the Institute and perform all such other duties as may be assigned to him by the Council.

Honorary general secretary.

15. The honorary general treasurer of the Council shall be responsible for the collection of moneys due to the Institute, for the keeping of proper accounts of the moneys of the Institute, for the preparation and submission to the Council of a monthly statement on the financial position of the Institute, for the preparation of an annual statement of accounts of the Institute and for the performance of such other duties relating to the financial affairs of the Institute as may be assigned to him by the Council.

Honorary general treasurer.

16. (1) The Council may from time to time appoint committees for any purpose the Council may determine and shall assign to each such committee its duties and functions.

Committees of the council.

(2) Every such committee shall include at least one member of the Council.

(3) The chairman of every committee shall be a member of the Council.

(4) The Council shall appoint 'the Chairman if more than one member of the Council is appointed to the committee.

(5) The chairman shall preside at every meeting of the committee at which he is present and in the absence of the chairman a member chosen by the majority of members present shall preside at such meeting.

(6) Subject to any direction that may be given by the Council, a committee may regulate its own procedure and conduct its business in such manner as it thinks fit.

17. (1) It shall be lawful for the Minister, from time to time, to make rules or regulations of his own motion until the

Power of Minister to make rules, or Regulations.

constitution of the Council and thereafter, at the request of the Council, in respect of all or any of the following matters :—

- (a) any matter required to be prescribed or in respect of which rules or regulations are authorized or required to be made;
- (b) (i) the classification of members as corporate or non-corporate members;
- (ii) grading of corporate and non-corporate members;
- (c) fees payable for admission to or renewal of membership and the time and manner of payment of such fees;
- (d) the meetings of the Institute and of the Council, how and when such meetings are to be convened, and the conduct of business at such meetings;
- (e) the election or appointment of members of the Council;
- (f) the powers, functions and duties of the office-bearers of the Council;
- (g) the constitution of committees of the Council, the election of nomination of members of such committees, the powers, functions and duties of such committees and the conditions subject to which such powers, functions and duties may be exercised or discharged;
- (h) the appointment, remuneration, dismissal and disciplinary control of officers and servants of the Institute and the grant of allowances, gratuities and *ex gratia* payments upon their retirement or upon their death to the widows and orphans;
- (i) the fees payable by students for admission to the qualifying examination of the Institute and for courses of study provided by the Institute;
- (f) the remuneration of lecturers and examiners;
- (k) the establishment and regulation of a fund for the grant of financial assistance to the widows and orphans of corporate members and of non-corporate members;
- (l) the administration and management of the property of the Institute;
- (m) the establishment and maintenance of a fund into which all moneys received by the Institute shall be paid and out of which all the expenses and liabilities incurred by the Council in the exercise or performance of its powers, functions and duties shall be met;
- (n) the books of accounts to be kept by the Institute;
- (o) the audit of the accounts of the Institute;
- (p) the manner in which moneys of the Institute may be invested;
- (q) the arbitration of disputes which may be referred to the Institute for determination; and
- (r) all such other matters hereinbefore specifically not mentioned as may be necessary for carrying out the provisions of this Law or for the exercise of the powers of the Institute and the discharge of its duties.

(2) Every rule or regulation made under subsection (1) shall be published in the Gazette and shall come into effect on the date of such publication. Every such rule or regulation shall, as soon as may be after such publication, be placed before Parliament for approval, and if such rule or regulation is not so approved, such rule or regulation shall be deemed to be rescinded from the date of such disapproval without prejudice to anything previously done thereunder. Notice of such disapproval shall be published in the Gazette.

18. (1) A session of the Institute shall be held once in every two years. Sessions of Institute.

(2) The quorum for a session of the Institute shall be two-fifths of the corporate members of the Institute eligible to vote at such session.

(3) At such session—

(a) the Council's report and audited accounts for the preceding financial year shall be submitted.

(b) the members of the Council shall be elected, and

(c) any other business determined by the Council, and referred to in the notice given under subsection (4) may be transacted.

(4) Not less than two months* notice in writing of a session shall be given to each corporate member. Such notice shall state the date, time and place fixed for the session and the items of business to be considered thereat and shall be sent through the post by registered letter addressed to the last known place of residence of that member.

(5) At least two weeks' notice of a session shall be given in a daily newspaper circulating in Sri Lanka.

First conference of the Institute.

19. (1) The first conference of corporate members shall be held before the expiry of one year after the constitution of the first Council. Thereafter, a conference shall be convened at least once in every two years.

(2) Fourteen clear days' notice in writing shall be given to the members of every conference of the Institute, the date, time and place of such conference and the business to be brought up before it being specified in such notice.

(3) Such notice shall be forwarded to each member through the post by registered letter addressed to the last known place of residence of that member.

(4) The quorum for any conference of the Institute shall be one-fourth of the corporate members of the Institute,

20. (1) The president of the Council may, of his own motion, and shall, upon a requisition in writing made in that behalf by not less than five members of the Council, or by not less than twenty-five corporate members of the Institute who are eligible to vote, cause a special general meeting of the corporate members to be summoned.

Special General Meeting of the Institute.

(2) At least fourteen clear days' notice in writing of every special general meeting shall be given to each member. Such notice shall state the date, time and place fixed for the meeting and the matters for discussion of which the meeting is being summoned and shall be sent to each member through the post by registered letter addressed to the last known place of residence of that member.

(3) At least two weeks' notice of a meeting shall be given in a daily newspaper circulating in Sri Lanka.

(4) No matter other than that stated in the notice sent to each member under subsection (2) shall be considered at the special general meeting to which the notice relates.

(5) The quorum for any special general meeting shall be two-fifths of the corporate members who are eligible to vote.

21. (1) An ordinary general meeting of the corporate members of the Institute may be summoned for the reading of papers on matters of interest to the profession and discussions thereon,

Ordinary general meeting of the institute.

(2) No matter concerning the affairs or management of the Institute or the affairs of the Council shall be discussed at an ordinary general meeting.

(3) At least seven clear days' notice in writing of an ordinary general meeting shall be given to each corporate member.

(4) The quorum for an ordinary general meeting shall be fifteen corporate members of the Institute.

22. (1) The Council shall have the power to disenrol any person who is a member of the Institute, if he—

Disenrolment or suspension of members of the Council.

- (a) has been convicted by a competent court whether in or outside Sri Lanka of any offence involving moral turpitude and punishable with imprisonment for a term of not less than six months ; or
- (b) has been adjudged by a competent court whether in or outside Sri Lanka to be of unsound mind ; or
- (c) has been found guilty of professional misconduct after an inquiry by the Council or committee of the Council.

(2) Where by reason of the provisions of paragraph (a) or paragraph (c) of subsection (1), the Council is empowered to disenrol any person who is a member of the Institute, the Council may, in lieu of exercising that power, suspend the person from membership for such period as the Council may deem fit.

(3) Where a person has been disenrolled or suspended by the Council, the Council may, of its own motion or upon the application of that person, re-enrol or reinstate such person if the Council is satisfied that such person is fit to practise the profession of a valuer.

(4) For the purposes of this Law professional misconduct will be any act or omission for the time being specified in Schedule B hereto.

Use of titles and designations.

23. (1) Every member of the Institute who is registered as a Fellow member of the Institute shall have the right to use the abbreviated designation " F. I. V. " after his name to indicate that he is a Fellow member.

(2) Every member of the Institute who is registered as a Graduate member of the Institute shall have the right to use the abbreviated designation " G. M. I. V. " after his name to indicate that he is a Graduate member.

(3) Every member of the Institute who is registered as an Associate member of the Institute shall have the right to use the

abbreviated designation " A. I. V. " after his name to indicate that he is an Associate member.

(4) Every member of the Institute who is registered as a Licentiate member of the Institute shall have the right to use the abbreviated designation " L. I. V. " after his name to indicate that he is a Licentiate member.

(5) Every member registered under the preceding subsections shall be entitled to take and use the title " Incorporated Valuer. "

24. (1) (a) No person shall take or use any title, description or abbreviation referred to in section 23, and which under that section only a member enrolled in any grade of the class of corporate members may take or use, unless such person is for the time being enrolled as a member in that grade.

Restrictions as to use of titles.

(b) Notwithstanding anything in paragraph (a), a firm of valuers may take and use the title " Incorporated Valuers " if each partner of the firm is entitled under subsection (5) of section 23 to take and use the title " Incorporated Valuer. "

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

25. For the purposes of this Law, a person shall be deemed to practise as a valuer, if, in consideration of remuneration received or to be received whether by himself or in partnership with any other person he—

"Meaning of practise " as valuer.

(a) engages himself in the practice of valuation of immovable property or holds himself out to the public as a valuer of immovable property ; or

(b) renders professional service or assistance in respect of matters of principle or detail relating to valuation of immovable property; or

(c) certifies a report on the value of any immovable property; or

(d) renders any other service which may be prescribed by the Council to be service constituting practice as a valuer.

Offences.

26. (1) Every person who neglects or fails to comply with any provisions of section 24 of this Law shall be guilty of an offence and on conviction after trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding six months or to a fine not exceeding one thousand five hundred rupees or to both such imprisonment and fine.

(2) Where an offence-under this Law is committed by a body of persons, then—

- (a) if that body of persons is a body corporate, every member and officer of that body corporate, or
- (b) if that body of persons is a firm, every partner of that firm,

shall be guilty of that offence :

Provided, however, that a member or an officer of that body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

27. No prosecution for an offence under this Law shall be instituted except by a member or officer of the Council authorized in writing for the purpose by the president of the Council.

28. The initial capital of the Institute shall be one hundred and fifty thousand rupees, which shall be donated to the Institute out of the Consolidated Fund.

29. (1) The Institute shall have its own fund. Fund of the Institute.

(2) There shall be paid into the fund of the Institute:—

- (a) all such amounts as may be voted from time to time by a resolution of Parliament for the use of the Institute; and
- (b) all such sums of money received by the Institute in the exercise, discharge and performance of its powers and duties.

30. The financial year of the Institute shall be the calendar year. Financial year of the Institute-

31. The provisions of the Public Corporations (Financial Control) Act shall *mutatis mutandis*, apply to the financial control and accounts of the Institute. Application of the provisions of the Public Corporations (Financial Control) Act.

SCHEDULE A

[Section 7]

1. Every application for enrolment in any grade of the class of corporate members shall—

- (1) (a) be made before the constitution of the Council, to the enrolling officer on or before such date as shall be fixed by the Minister by notice published in the Gazette and in two daily newspapers circulating in Sri Lanka, or
- (b) be made after the constitution of the Council, to the secretary to the Council;
- (2) be in such form as may be provided for the purpose by the enrolling officer or the secretary to the Council, as the case may be;
- (3) state the qualifications by virtue of which the applicant is eligible for enrolment in that grade and be supported by an affidavit as to such qualifications ;
- (4) be signed by the applicant;
- (5) be accompanied by the amount of the appropriate application fee, entrance fee, and membership fee ; and
- (6) be recommended, if made after the constitution of the Council, by two members of the Council or by four members of the Institute of whom one shall be a Fellow, one shall be a Graduate member, and not less than two shall be members enrolled in the grade in which the applicant seeks enrolment.

Applications for enrolment as corporate members.

2. (I) Every application for enrolment in any grade of the class of non-corporate members shall—

- (a) be made in such form as may be provided for the purpose by the secretary to the Council after its constitution;

Application for enrolment as non-corporate members.

- (b) state the qualifications by virtue of which the applicant is eligible for enrolment in that grade and where the application is for enrolment in any grade other than that of honorary member, be supported by an affidavit as to such qualification;
- (c) be signed by the applicant;
- (d) where such application is for enrolment in any grade other than that of honorary member, be accompanied by the amount of the appropriate application fee, entrance fee and membership fee, or where the application is for enrolment as an honorary member, be accompanied by the appropriate membership fee; and
- (e) be recommended by at least two corporate members.

(2) Any person who is eligible for enrolment in any grade may be enrolled in that grade if his application conforms to the provisions of this rule.

(3) The Minister may appoint an enrolling officer who shall deal with applications for enrolment made prior to the constitution of the Council.

Fees. 3 (1) The application fee, entrance fee, and annual membership fee and renewal fee payable in respect of any grade shall be as follows:—

Grade	Application Fee		Entrance Fee		Annual Membership Fee		Renewal Fee	
	Rs.	Cts.	Rs.	Cts.	Rs.	Cts.	Rs.	Cts.
Fellow	5	0	150	0	240	0	240	0
Graduate member	5	0	125	0	200	0	200	0
Associate	5	0	50	0	120	0	120	0
Licentiate	5	0	40	0	75	0	75	0
Probationer	5	0	30	0	50	0	50	0
Student	2	50	25	0	10	0	10	0
Honorary								

(2) The entrance fee and the annual membership fee payable by any person for enrolment in a grade higher than that in which he is enrolled shall be the difference between the respective entrance fees and between the respective annual membership fees.

Registers. 4 (1) There shall be two registers, one in respect of persons enrolled as corporate members and the other in respect of persons enrolled as non-corporate members. Each register shall be divided into separate parts and each part shall be in respect of a different grade in the class of members to which the register relates and shall contain the names, addresses and qualifications of persons enrolled in that grade.

(2) The register relating to corporate members shall be maintained by the enrolling officer until the Council is constituted and thereafter by the secretary to the Council for and on behalf of the Council.

(3) The register relating to non-corporate members shall be maintained by the Secretary to the Council for and on behalf of the Council.

Cessation of Membership. 5 (1) The enrolment of a person as a member of the Institute shall be effective for a period of one year from the date of enrolment.

(2) Any member of the Institute who fails to pay the renewal fee before the expiry of the period of validity of his enrolment shall cease to enjoy his rights and privileges as a member until he pays all sums due by way of renewal fees. If he fails to pay such sums, within two years after the expiry of that period, his name shall be expunged from the register.

(3) Any person whose name has been expunged from the register under the provisions of sub-paragraph (2) may subsequently be re-enrolled as a member if he pays in addition to the application fee, entrance fee and membership fee all sums due from him by way of renewal fees up to the date on which his name was expunged.

6. Each of the following acts or omissions shall constitute misconduct on the part of a valuer:—
- (1) soliciting clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means;
 - (2) charging in respect of any professional work fees based on a percentage of profits;
 - (3) paying or allowing or agreeing to pay or allow, directly or indirectly, to any person other than a corporate member of the Institute or a retired partner or a nominee or the legal representative of such partner, any share, commission or brokerage out of the fees or profits for his professional services;
 - (4) accepting or agreeing to accept any part of the fees or profits of the professional work of any lawyer, auctioneer, broker or any other agent who is not a corporate member of the Institute;
 - (5) allowing any other person to practise in his name as a valuer unless such other person is also a corporate member of the Institute and is in partnership with or employed by him ;
 - (6) offering any gratification to any person as an inducement or a reward for procuring or providing any professional work;
 - (7) accepting any work previously undertaken by any other corporate member of the Institute otherwise than as an agent of that corporate member or without first communicating with him in writing;
 - (8) accepting or agreeing to accept any professional work from any person in relation to any matter where the interest of that person in that matter conflicts with those of any other person from whom professional work in respect of that matter has been accepted;
 - (9) disclosing information acquired in the performance of any professional work except when required so to do by the person who entrusted him with that work or his agent or by a court of law or by a board or commission of arbitration appointed under this Law ;
 - (10) certifying or submitting in his name or in the name of his firm any report or statement in the performance of his professional work unless such report or statement was prepared by him or by a partner of, or of an employee in, his firm ;
 - (11) gross negligence in the performance of his professional work;
 - (12) failing to obtain sufficient information to warrant the expression of an opinion;
 - (13) discrediting or attempting to discredit the professional reputation or skill of any other valuer; and
 - (14) advertising his professional attainments or services.

CHAPTER 205

INDUSTRIAL PRODUCTS

Acts Nos. 18 of 1949, 53 of 1956, 69 of 1961. AN ACT TO FACILITATE THE SALE OF THE INDUSTRIAL PRODUCTS OF SRI LANKA BY REGULATING THE IMPORTATION OF INDUSTRIAL COMMODITIES FROM ABROAD.

[21st November, 1949.]

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

Appointment of Controller and other officers. **2.** (1) There may be appointed, by name or by office, a Controller of Industrial Products, a Deputy Controller of Industrial Products, and such number of Assistant Controllers of Industrial Products and other officers as may be necessary for the purposes of this Act.

(2) The Deputy Controller and each Assistant Controller shall, subject to the directions of the Controller, exercise all or any of the powers vested in the Controller by this Act.

The Industrial Products Regulation Board. **3.** (1) There shall be established an "Industrial Products Regulation Board" consisting of the Controller who shall be the *ex officio* chairman of the board, and not more than five other members appointed by the Minister.

(2) Subject as hereinafter provided, each member of the board shall ordinarily hold office for a period of three years unless he is appointed to be a member of the board for some shorter period ;

Provided that any member or members of the board may at any time resign from the board or be removed therefrom by order of the Minister.

(3) Regulations may be made providing for the conduct of the business of the board and the procedure to be observed at meetings of the board;

Provided that the board may regulate its own procedure in any matter not provided for by regulation.

(4) Where the board has by resolution determined that information on any matter is necessary for the purposes of this Act, the chairman of the board may, at any time after the passing of such resolution, exercise in respect of any such matter any power conferred on the Director of Statistics by or under the Statistics Ordinance; and that Ordinance shall, for such purpose, be read and construed, and shall have effect, as though—

- (a) such matter were a matter to which the provisions of that Ordinance have been duly applied by Order under section 2 of that Ordinance;
- (b) any reference in that Ordinance to the Bureau of Statistics were a reference to the board ; and
- (c) any reference in that Ordinance to the Director of Statistics were a reference to the chairman of the board,

4. (1) It shall be the duty of the board to discharge such functions as are assigned to the board under this Act and to advise the Minister from time to time on the following matters;—

Functions of the board-

- (a) the articles or commodities which shall be declared industrial products by Order under section 5, the industrial products to which the provisions of this Act shall be applied by Order under section 8, and all matters required to be prescribed by Notification under section 9;
- (b) any other matter referred by the Minister to the board for advice.

(2) The board shall also perform such functions, discharge such duties, and exercise such powers, as may be assigned or entrusted to or vested in the board by this Act or by any regulation.

Declaration that articles are industrial products.

5. The Minister, after consulting the board, may from time to time declare by Order published in the Gazette that any article or commodity specified in the Order shall be an industrial product for the purposes of this Act.

Power of the Controller to call for returns relating to industrial products.

6. The Controller may from time to time, by notification published in the Gazette, require every person who manufactures any industrial product specified in any Order published under section 5, or has in his possession or under his control any such industrial product, to furnish a return containing such particulars as the Controller may require relating to the quantities, description and grade of that industrial product manufactured, purchased or sold by him during such period as may be specified by the Controller, and to the stocks of that industrial product in his possession or under his control at the date on which the return is made.

Application for registration as manufacturer or stockist of an industrial product.

7. (1) Any person who has furnished a return relating to any industrial product under section 6 may apply to the Controller for registration as a manufacturer or as a stockist of that industrial product.

(2) Every application for registration as a manufacturer or as a stockist of an industrial product shall be made in the prescribed form and shall contain a declaration by the applicant that the particulars stated in the application are, to the best of his knowledge and belief, true and accurate.

(3) Where the Controller is satisfied that the particulars stated in any application for registration are true and accurate and that the quality of the industrial product manufactured or stocked by the applicant is of reasonable standard, he shall register the applicant as a manufacturer or as a stockist of that industrial product and shall issue to the applicant a certificate of registration in the prescribed form. Every person to whom

a certificate of registration is issued is hereinafter referred to as a registered manufacturer or as a registered stockist.

8. (1) The Minister, after consulting the board, may, by Order published in the Gazette, apply the provisions of this Act, with effect from a specified date, to any industrial product specified in that Order, and may, in like manner, vary or revoke any such Order.

Application of Act to specified industrial products by Order of Minister.

(2) An industrial product specified in an Order under subsection (1) is hereinafter referred to as a "regulated product" and shall continue to be a regulated product for the purposes of this act until that Order is revoked as hereinbefore provided.

(3) Every Order shall, in addition, specify the local product which an importer must purchase in order to obtain a licence to import the regulated product.

(4) An Order may be made in respect of any industrial product notwithstanding the revocation of any previous Order made in respect of the same product.

9. (1) The Minister, after consulting the board, may, by Notification published in the Gazette, prescribe— Notification of standard grade' price,&c.

(a) the ratio for determining the quantity of the local product which an importer must purchase in order to obtain a licence to import a specified quantity of the regulated product;

(b) the price at which a specified grade of the local product will be sold to an applicant for a licence to import the regulated product.

(2) The price to be prescribed by a Notification under subsection (1) in respect of any local product shall not be less than the cost (including all connected charges and expenses) at which that local product can be obtained by the Controller.

(3) Any ratio, price or grade, specified in a Notification published under subsection (1) is hereinafter referred to as the standard ratio, the standard price, or the standard grade, as the case may be.

Implementation of regulated product prohibited except under licence

10. (1) No consignment of any quantity of any regulated product shall be imported into Sri Lanka unless the importation of a consignment of that quantity of that regulated product is authorized by an import licence issued by the Controller under this Act.

(2) A separate import licence shall be necessary in respect of each consignment of any quantity of any regulated product imported into Sri Lanka.

(3) Every import licence issued under this section shall cease to be valid on a date which shall be fixed by the Controller and inserted by him in the licence at the time the licence is issued;

Provided that the Controller may by endorsement made on the licence extend the period of the validity of the licence if he is satisfied that there are sufficient grounds* for such extension.

(4) For the purposes of the application of the Customs Ordinance, a regulated product shall be deemed to be an article the importation of which is restricted by Ordinance.

Application for import licence

11. Every application for a licence to import a consignment of any quantity of any regulated product shall be made to the Controller in the prescribed form.

Payment for prescribed quantity of local product a condition precedent to issue of import licence.

12. (I) No person shall be entitled to receive a licence authorizing the importation of a consignment of any quantity of any regulated product unless he has paid to the Controller the standard price for delivery of that quantity of the standard grade of the corresponding local product which bears the standard ratio to the quantity of the regulated product sought to be imported or unless security for the payment of the standard price has been tendered and accepted by the Controller in accordance with regulations made under subsection (2).

(2) Regulations may be made prescribing the circumstances and cases in which and the conditions subject to which the Controller may accept security for the payment referred to in subsection (1).

(3) In any case where payment for any quantity of the local product has been made or secured under this section, and an import licence has been issued to any person authorizing the importation of any consignment of any regulated product, and it is subsequently proved to the satisfaction of the Controller that the consignment will not be imported owing to causes beyond the control of that person, the Controller shall, upon surrender of the import licence and of any coupon or deiiiveiy warrant which may have been issued to that person in respect of the local product, refund to him the sum so paid or, as the case may be, cancel the instrument by which the payment was secured.

13. (1) Where payment for any quantity of any local product is made or secured under section 12, the person making such payment or tendering such security, shall be entitled to receive from the Controller a coupon for that quantity of that local product

Coupon for proportionate quantity of local product paid for by importer.

(2) Where the Controller has, in his discretion, fixed the denominations of coupons to be issued in respect of any local product, a person entitled under subsection (1) to a coupon for any quantity of that local product shall be entitled to receive from the Controller on demand, instead of a single coupon, coupons of such denominations as will in the aggregate represent that quantity of that local product.

(3) Every coupon shall specify—

- (a) the name and address of the person to whom, and the date on which, it is issued;
- (b) the local product in respect of which it is issued and the quantity of that local product; and
- (c) the date on which it shall cease to be valid.

(4) At any time before the date specified in any coupon under paragraph (c) of subsection (3) the Controller may, by notice sent by registered post addressed to the person to whom that coupon was issued,

direct that for the date so specified a later or an earlier date shall be substituted ; and that coupon shall accordingly cease to be valid on the date so substituted.

Power of tht Controller to undertake the disposal of local product.

14. (1) Where an Order under section 8 is in force applying the provisions of this Act to any industrial product, the Controller may, upon application made in that behalf by any registered manufacturer or stockist of the local product specified under subsection (3) of the aforesaid section in that Order, undertake the disposal of the whole or any portion of the stocks of the local product in. the possession of that registered manufacturer or stockist.

(2) Where the Controller undertakes the disposal of any local product under subsection (1), he shall issue to the registered manufacturer or stockist of that local product a certificate in the prescribed form setting out the quantity, grade and description of the local product to which the undertaking relates.

(3) The Controller may require any person to whom a certificate has been issued under subsection (2) to deliver at any premises indicated by the Controller the whole or any portion of the quantity of the local product specified in that certificate.

(4) The stocks of any local product delivered at any premises by any registered manufacturer or stockist under subsection (3) shall, so long as such stocks are kept in such premises, be deemed to be kept at the risk of that registered manufacturer or stockist, and neither the Controller nor any of his officers shall be liable for any damage to, or deterioration in the quality of, the stocks of that local product unless such damage or deterioration is caused by the wilful negligence of the Controller or any of his officers.

Stocks of local product undertaken to be disposed of by the Controller may be sold by the owner by private treaty.

15. (I) Notwithstanding anything in section 14, any registered manufacturer or stockist to whom a certificate has been issued under subsection (2) of the aforesaid section may, with the prior approval in writing of the Controller, dispose by private treaty of the whole or any portion of the stocks of the local product to which the certificate relates.

(2) Where the whole or any portion of the stocks of any local product specified in a certificate issued under subsection (2) of section 14 has been disposed of by private treaty in accordance with the provisions of subsection (1) of this section, the Controller shall recall the certificate and shall cancel that certificate or, as the case may be, endorse thereon the quantity of the local product which remains unsold.

16. (1) Subject to the provisions of section 17, the person to whom a coupon has been issued under section 13 or section 18A may, at any time before that coupon ceases to be valid, obtain from the Controller, in exchange for the coupon, a delivery warrant for the amount of the local product specified in that coupon.

Coupons to be exchanged for delivery warrants. [§3,53 of 1956.]

(2) Every delivery warrant shall specify—

- (a) the quantity and grade of the local product to which that warrant relates;
- (b) the name and address of the registered manufacturer or stockist of such local product;
- (c) the place at which such delivery will be made; and
- (d) the person to whom that warrant is issued and the date on which that warrant will cease to be valid.

[§2,69 of 1961.]

(3) The Controller shall send a copy of every delivery warrant issued under subsection (1) by registered post to the registered manufacturer or stockist whose name is specified in that warrant.

(3A) A delivery warrant—

[§2,69 of 1961.]

- (a) shall, as soon as practicable after its issue, be surrendered by the person to whom it was issued or his authorized agent to the registered manufacturer or stockist whose name is specified therein; and
- (b) shall, upon such surrender, be endorsed by such manufacturer or stockist with the date or dates,

within the period of the validity of the warrant, on which the quantity, or any part of the quantity, of the grade of the local product specified in the warrant will be available for delivery to such person or his authorized agent.

from such stocks of such quantity of that grade of that local product as is so specified, on the surrender of that warrant on such other date as may be specified by any subsequent endorsement made on such warrant by such manufacturer or stockist or the Controller either of his own motion or at the request of such person or his authorized agent.

[§2, 69 of 1961.]

(4) A delivery warrant which is issued in respect of any grade of any local product and is endorsed as required by subsection (3A) by the registered manufacturer or stockist whose name is specified therein shall,—

- (a) if such quantity of that grade of that local product as is specified in such endorsement is available for delivery on the date so specified, be sufficient authority for the person to whom that warrant is issued or his authorized agent, on surrender of that warrant on that date, to obtain at the place specified therein delivery of such quantity of that grade of that local product as is so specified from the stocks of such manufacturer or stockist; or
- (b) if only a part of such quantity of that grade of that local product as is specified in such endorsement is available for delivery on the date so specified, be sufficient authority for the person to whom that warrant is issued or his authorized agent, on surrender of that warrant on that date, to obtain at the place specified therein delivery of such part of that quantity, and to obtain delivery of the balance of such quantity at such places and on such other dates as may be specified by any subsequent endorsement made on such warrant by such manufacturer or stockist; or
- (c) if such quantity of that grade of that local product as is so specified is not available for delivery on that date, or is so available but such person or his authorized agent is unable to take such delivery on that date, be sufficient authority for such person or his authorized agent, to obtain at such place delivery

17. (1) Where stocks of any grade of any local product specified in a delivery warrant are kept in the factory or store of the registered manufacturer or stockist whose name is specified in that warrant, such manufacturer or stockist shall, immediately after delivery of any quantity of that grade of that local product to the person to whom such warrant was issued or his authorized agent, require such person or such agent to make an endorsement on that warrant in acknowledgment of the delivery of such quantity, and it shall be the duty of such person or such agent to make such endorsement,

Delivery of local product by or on behalf of the registered manufacturer or stockist. [§2,69 of 1961.]

(2) Upon completion of the delivery of the quantity of the local product specified in the delivery warrant the registered manufacturer or stockist whose name is specified in that delivery warrant shall, on production to the Controller of that delivery warrant endorsed as required under subsection (i), and of the certificate issued to him under subsection (2) of section 14, be entitled to be paid the standard price for the quantity of the local product so delivered less an amount equivalent to two and half per centum of such price which amount shall be appropriated by the Controller towards the expenses of the administration of this Act.

(3) Where stocks of any local product specified in a delivery warrant are stored in any premises used or occupied by the Controller, the Controller shall, immediately after delivery to the person to whom that warrant is issued or his authorized agent of any quantity of such local product, notify the registered manufacturer or stockist whose name is specified in that delivery warrant that such delivery has been made, and thereupon that

[§2,69 of 1961-]

registered manufacturer or stockist shall, on production to the controller of the Certificate issued to him under subsection (2) of section 14, be entitled to be paid the standard price for the quantity of local product so delivered less an amount equivalent to two and half *per centum* of such price which amount shall be appropriated by the Controller towards the expenses of the administration of this Act.

Controller authorized to issue multiple delivery warrant and to vary standard grade.

18. (1) It shall be lawful for the Controller in his discretion to issue, in exchange for any coupon, separate delivery warrants for portions of the quantity of the local product specified in that coupon :

Provided that the aggregate of the quantities specified in such delivery warrants shall be equal to the quantity specified in the coupon.

(2) It shall be lawful for the Controller in his discretion to specify in any delivery warrant issued under this Act for any quantity of any local product that such local product shall be of a grade other than the standard grade.

(3) Where under subsection (2) any variation is made in the grade of any local product, the standard price of such local product may be varied and the price to be paid for such local product shall be such price as the Controller may have fixed for such other grade with the approval of the board.

(4) Where the price fixed under subsection (3) is lower than the standard price, the person to whom a coupon has been issued shall, at the time of issue to him of a delivery warrant in exchange for that coupon, be entitled to a refund of the amount by which the cost at the standard price of the quantity specified in such delivery warrant exceeds the cost of that quantity at the lower price so fixed.

(5) Where the price fixed under subsection (3) is higher than the standard price, the person to whom a coupon has been issued shall not be entitled to receive any delivery warrant in exchange for that coupon until he has paid to the Controller the amount by which the cost at such higher

price of the quantity specified in any such delivery warrant exceeds the cost of that quantity reckoned at the standard price.

(6) No delivery of any quantity of any local product specified in any delivery warrant shall be made after the date on which that warrant ceases to be valid.

(7) Where delivery of any quantity of any local product specified in any delivery warrant is not taken before the date on which that warrant ceases to be valid, a quantity of that local product in the stocks of the registered manufacturer or stockist whose name is specified in that delivery warrant, corresponding to the quantity of that local product specified in the delivery warrant, shall be sold at the risk of the person to whom that warrant was issued.

(8) Where any quantity of any local product specified in any delivery warrant is sold under subsection (7), the person to whom the delivery warrant was issued may, on application made to the Controller and on surrender of that delivery warrant, be entitled to be paid the sum realized at such sale less—

- (a) the costs of such sale; and
- (b) an amount equivalent to two and half *per centum* of the proceeds of such sale which amount shall be appropriated by the Controller towards the expenses of the administration of this Act.

and, upon payment of such sum to such person, the Government and the Controller shall be discharged from any liability to any person in respect of that delivery warrant.

(9) If no application is made under subsection (8) by the person to whom any delivery warrant was issued within a period of twelve months reckoned from the date of issue specified in that warrant, any sum which such person may have claimed under that subsection shall be credited to the Consolidated Fund; and the Government and the Controller shall thereupon be discharged from any liability to any person in respect of that delivery warrant or of any

sum payable under subsection (8) to the person to whom that delivery warrant was issued.

(10) (a) The person to whom a delivery warrant is issued may, if he refuses to take delivery of the local product offered to him on surrender of that warrant on the ground that the local product so offered is not of the standard grade or, as the case may be, of the grade specified under subsection (2) in the warrant, or is not of proper quality or in proper condition, apply to the Controller for a declaration that his refusal to accept the local product is just and proper.

(b) No application to the Controller for a declaration under paragraph (a) shall be entertained unless it is made while the delivery warrant is valid or before the expiry of seven days from the date on which it ceased to be valid.

(c) Where on any such application the Controller refuses to make a declaration under paragraph (a), notice of such refusal shall be sent by registered post to the applicant; and the applicant shall be entitled, within a period of ten days from the date of the receipt of such notice, to appeal against the refusal to the Minister; and the decision of the Minister upon any such appeal shall be final.

(d) In any case where, upon application made by any person under paragraph (a), the Controller makes a declaration under that paragraph in respect of any local product, whether in the first instance or in compliance with any direction given by the Minister on any appeal, the following provisions shall have effect;—

- (i) the Controller shall take all such steps as may be necessary whether by the alteration or extension of the validity of the delivery warrant, or by the issue of a new delivery warrant, or otherwise, to secure that such person is authorized to obtain the appropriate quantity of the local product of the standard grade or, as the case may be, of the specified grade and of proper quality and condition;

- (ii) notwithstanding that any quantity of the local product may have been sold as required by subsection (7), such sale shall not be deemed to have been effected at the risk of the person to whom the warrant was issued ; and

- (iii) such sale shall be deemed to have been effected at the risk of the registered manufacturer or stockist from whose stocks that quantity was sold, and accordingly payment of the sum realized at the sale (less the deductions authorized by subsection (8)) shall be made to that manufacturer or stockist upon application made by him within the time specified in that behalf in subsection (9); and upon payment of such sum, the Government and the Controller shall be discharged from any liability to such manufacturer or stockist.

(11) Subject to the provisions of this Act, the issue of a delivery warrant shall be deemed to constitute a contract between Government and the person to whom the delivery warrant is issued.

18A. (I) Where, after the expiration of the period of validity of any coupon or delivery warrant issued to any person, the Controller is satisfied that the quantity, or any part of the quantity, of the local product specified in the coupon or delivery warrant was not available for delivery to such person or his authorized agent during that period, the Controller shall, upon surrender of that coupon or warrant— ^

Refund of payment or release of security when local product is not available. [\$2, 53 of 1956.] [\$5.69 of 1961.]

- (a) if the whole of that quantity was not delivered to that person or his authorized agent, refund to him the price paid for that quantity or cancel the instrument by which the payment of the price of that quantity is secured, and

- (b) if only a part of that quantity was not delivered to that person or his authorized agent,—

- (i) refund to him the price paid for that part or release the security in respect of that part, and

(ii) issue to him, if it is a coupon that he has surrendered, a coupon or, if it is a delivery warrant that he has surrendered, a delivery warrant for such part of that quantity as is available for delivery to him.

(2) Every contract referred to in subsection (11) of section 18 shall be subject to the provisions of subsection (1) of this section.

Power of Controller to ask for information from registered manufacturers or stockists.

19. The Controller may at any time require, in the prescribed manner, any registered manufacturer or stockist to furnish before a specified day, in the prescribed form, any information relating to the industrial product manufactured or stocked by that registered manufacturer or stockist.

Verification.

20. The Controller or any officer authorized by him in writing may, for the purpose of verifying the correctness of any information furnished, under this Act or any regulation made thereunder, by any person applying for registration as a manufacturer or stockist or by any registered manufacturer or stockist, or for the purpose of grading and pricing the local product manufactured or stored by such person or registered manufacturer or stockist—

- (a) enter the factory or store of such person or registered manufacturer or stockist, and
- (b) inspect the quality of the stocks in such factory or store.

Offences.

21. (1) Where any certificate has been issued under subsection (2) of section 14 in respect of any quantity of a local product, no person shall, so long as such quantity remains unsold by the Controller, remove or tamper with such quantity or any portion thereof without the approval of the Controller.

(2) Every person who does any act in contravention of the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction after

summary trial before a Magistrate 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.

(3) Where any registered manufacturer or stockist is convicted before any court of an offence under subsection (2), the court may order that the certificate of registration issued to that registered manufacturer or stockist be cancelled.

(4) Any person whose certificate of registration is cancelled by an order of court under subsection (3) shall not be entitled to apply for a new certificate of registration until after the expiry of a period of twelve months from the date of such order.

22. All sums of money appropriated by the Controller towards the expenses of the administration of this Act shall be paid to the Consolidated Fund.

Payment to the Consolidated

23. (1) The Minister may make regulations for the purposes 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), such regulations may—

- (a) provide for any matter which is in this Act stated or required to be prescribed;
- (b) prescribe the manner in which information required under this Act shall be obtained by, or be furnished to, the Controller;
- (c) prescribe the standard specifications of any grade of a local product,
- (d) prescribe the manner in which any local product which the Controller has undertaken to dispose of shall be packed and labelled ; and
- (e) prescribe the conditions of the premises, and the manner, in which stocks of any local product to be disposed of by the Controller shall be stored.

(3) No regulation shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) Upon the publication in the Gazette of a notification to the effect that a regulation made by the Minister has been approved by Parliament, that regulation shall be as valid and effectual as if it were herein enacted.

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

" board " means the Industrial Products Regulation Board established under this Act;

" consignment", when used with reference to any regulated product, means any quantity of that product upon the importation of which into Sri Lanka a separate bill of entry is required under the Customs Ordinance to be delivered to the Collector, whether for payment of duty upon, or for the warehousing of, such quantity or for the payment of duty upon such quantity when it is taken out of the warehouse,

" Controller " means the person appointed under section 2 to be or to act as Controller of Industrial Products, and includes any person for the time being holding the office of Deputy or an Assistant Controller of Industrial Products;

[§4, 53 of 1956.]

"coupon " means a coupon issued under section 13 or section 18A;

t§4,53 of 1956.]

" delivery warrant" means a delivery warrant issued under section 16 or section 18A;

" grade ", when used with reference to any industrial product, includes any

quality, variety or description of that product;

" import licence" means a licence to import a regulated product;

" industrial product " means any article or commodity for the time being declared by Order under section 5 to be an industrial product for the purposes of this Act;

" local product" means an industrial product manufactured in Sri Lanka;

" prescribed" means prescribed by or under this Act or by any regulation;

" registered manufacturer" means any person registered as a manufacturer of any industrial product under section 7 and includes his authorized agent;

" registered stockist" means any person registered as a stockist of any industrial product under section 7 ;

" regulated product " means an industrial product to which the provisions of this Act have been applied by an Order under section 8 ;

"regulation " means a regulation made by the Minister under section 23 ;

" standard ", when used with reference to any grade, price or ratio, means the grade, price or ratio prescribed in a Notification published under section 9.

25. The provisions of this Act shall be in addition to and not in derogation or substitution of the provisions of any other written law relating to the marketing or sale or importation of industrial products.

Construction of Act

CHAPTER 331

INSURANCE (SPECIAL PROVISIONS)

Act
No. 22 of 1979.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF SUBSIDIARY CORPORATIONS OF THE INSURANCE CORPORATION ESTABLISHED BY THE INSURANCE CORPORATION ACT AND OTHER INDEPENDENT CORPORATIONS, TO CARRY ON THE BUSINESS OF ANY DESCRIPTION OF INSURANCE SPECIFIED IN THE INCORPORATION ORDER ; AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th April, 1979]

Short title.

1. This Act may be cited as the Insurance(SpecialProvision)Act.

(e) fix the number of members of the Board of Directors of the subsidiary corporation;

PART I

ESTABLISHMENT OF SUBSIDIARY
CORPORATIONS AND INDEPENDENT
CORPORATIONS

(f) appoint the members of the Board of the subsidiary corporation in accordance with the provisions of section 8;

Incorporation
Order for the
establishment
of a subsidiary
corporation.

2. (1) Where the Minister considers it desirable that the right to carry on the business of any description of insurance should be extended to any other insurer in addition to the Insurance Corporation, he may with the approval of the Government by Order (hereinafter referred to as the "Incorporation Order") published in the Gazette,—

(g) appoint one of the members of the Board as its Chairman ;

(h) appoint the date on which the subsidiary corporation shall commence business.

(a) declare that a subsidiary corporation of the Insurance Corporation be established for the purpose of carrying on the business of insurance of any description as may be specified in such Order;

(2) Upon the publication of the Incorporation Order in the Gazette, a subsidiary corporation consisting of the persons who are for the time being members thereof by virtue of section 7, with the corporate name specified in such Order and with perpetual succession, shall be deemed to have been established.

(b) assign a corporate name to the subsidiary corporation;

(3) A subsidiary corporation may sue and be sued in its corporate name.

(c) determine the initial capital of the subsidiary corporation, which shall not exceed such amount as shall have been approved by Parliament;

(4) The amount of the initial capital of a subsidiary corporation shall be paid to such corporation out of the funds of the Insurance Corporation in such instalments as the Minister may with the concurrence of the Minister in charge of the subject of Finance determine.

(d) state the principal place of business of the subsidiary corporation;

Incorporation Order for the establishment of an independent corporation.

3. (1) Where the Minister considers it desirable that an independent corporation should be established, in addition to the Insurance Corporation and its subsidiaries, to carry on the business of any description of insurance as specified in the Incorporation Order, he may with the approval of the Government by Order (hereinafter referred to as "the Incorporation Order") published in the Gazette,—

- (a) declare that an independent corporation be established for the purpose of carrying on the business of insurance of any description as may be specified in such Order;
- (b) assign a corporate name to such independent corporation;
- (c) determine the initial capital of the independent corporation which shall not exceed such amount as shall have been approved by Parliament;
- (d) state the principal place of business of such independent corporation;
- (e) fix the number of members of the Board of Directors of such independent corporation,
- (f) appoint the members of the Board of such independent corporation in accordance with the provisions of section 8;
- (g) appoint one of the members of the Board as its Chairman ;
- (h) appoint the date such independent corporation shall commence business.

(2) Upon the publication of the Incorporation Order in the Gazette, an independent corporation consisting of the persons who are for the time being members thereof by virtue of section 7, with the corporate name specified in such Order and with perpetual succession, shall be deemed to have been established.

(3) An independent corporation may sue and be sued in its corporate name.

(4) The amount of the initial capital of an independent corporation shall be paid to such corporation out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may with the concurrence of the Minister determine.

PART II

PROVISIONS APPLICABLE TO
SUBSIDIARY AND INDEPENDENT
CORPORATIONS

4. The provisions of this Part, shall apply to a subsidiary corporation and an independent corporation established under this Act (hereinafter in this Part referred to as a " corporation ").

Provisions of this Part to apply to subsidiary and independent corporations.

5. (1) The seal of the corporation shall be in the custody of the Board.

The seal of the Corporation.

(2) The seal of the corporation shall be altered in such manner as may be determined by the Board.

6. (1) The general control, supervision and administration and business of a corporation shall be vested in the Board.

The general control of the corporation vested in the Board of Directors.

(2) The Board may exercise all or any of the powers of the corporation.

7. The persons holding office for the time being as members of the Board shall be the members of the corporation.

Members of the corporation.

8. (1) The corporation shall have a Board of Directors consisting of such number of persons as is fixed by the Incorporation Order and appointed by the Minister.

Board of Directors

(2) A person shall be disqualified from being appointed or being a member of the Board if he is or becomes a Member of Parliament.

(3) (a) Every member shall, subject to the provisions of subsections (4) and (5). hold office for a period of three years.

(b) Where a member of the Board appointed under this section, dies or resigns or is removed from office, the Minister may appoint another person to be a member in place of the member who dies or resigns or is removed from office.

(c) Any member of the Board appointed under paragraph (b) shall, unless he earlier resigns or vacates office by death or removal, hold office for the unexpired period of the term of office of the member whom he succeeds.

(4) Any member may resign from the Board by letter to that effect addressed to the Minister.

(5) The Minister may, if he considers it necessary to do so, without assigning any reason therefor remove any member of the Board.

(6) Where a member of the Board is, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint any other person to act in his place. A Director who vacates office by effluxion of time shall be eligible for reappointment.

(7) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the corporation shall disclose the nature of his interest at a meeting of the Board and such disclosure shall be recorded in the minutes of such Board, and the member shall not take part in any determination or decision of the Board with respect to that contract.

Remuneration of Directors.

9. All or any of the Directors may be paid such remuneration out of the funds of the corporation as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance,

Chairman of the Board of Directors.

10. (1) If the Chairman is by reason of illness or absence from Sri Lanka temporarily unable to perform the duties of his office the Minister may appoint any other member to act in place of such Chairman.

(2) The Chairman shall unless he vacates the office of Chairman by

resignation or is removed therefrom, hold office for the period of his membership of such Board.

(3) The Chairman may resign his office by letter to that effect addressed to the Minister.

(4) The Minister may, if he considers it necessary to do so, without assigning any reason therefor terminate the appointment of any member as Chairman of the Board of Directors and appoint any other member as Chairman of such Board.

11. (1) The quorum for any meeting of the Board shall be three members. The Chairman shall if present preside at every meeting of the Board. In the absence of the Chairman from any such meeting, the members present shall elect one of the members to preside at the meeting. Procedure at meetings of the Board.

(2) The Board may regulate the procedure in regard to the meetings of such Board and the transactions of business at such meetings.

12. Any act or proceeding of the Board shall not be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of its members. Acts not invalidated by vacancy

13. (1) The initial capital of the corporation shall be the amount specified in the Incorporation Order. Capital of the corporation,

(2) The capital of the corporation may be increased from time to time by such amount as may be determined by the corporation with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance.

14. The Minister may determine— Division of the capital into shares and the allotment.

(a) the amount of the initial capital that will be set apart for the division into shares;

(b) the value to be allotted to each such share;

(c) the basis of allotment of such shares if any,—

(i) to any Government department or public corporation; and

(ii) to the workers employed in such corporation.

business or in the exercise, discharge and performance of its powers, functions and duties under this Act.

Register of shareholders.

15. The Board 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 occupation, 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.

17. The provisions of section 5 of the Insurance Corporation Act shall apply as if those provisions were provisions of this Act and as if reference in that section to " Corporation" were references to a " corporation ".

Functions of the corporation.

18. The provisions of section 6, other than paragraphs (c) and (g) of the Insurance Corporation Act shall apply as if those provisions were provisions of this Act and as if reference in that section to " Corporation" were- references to a " corporation ".

Powers of the corporation.

Fund of the corporation.

16. (1) The corporation shall have its own Fund.

- (2) There shall be paid into the Fund—
 - (a) the sum paid to the corporation under section 13;
 - (b) all sums received by the corporation as premiums in respect of the policies of insurance issued by the corporation; and
 - (c) all sums of money received by the corporation in the carrying on of its business or in the exercise, discharge and performance of its powers, functions and duties under this Act.

19. Subject to the provisions of section 20, the corporation may enter into and perform all such contracts as may be necessary for the purpose of carrying on and transacting its business or in the exercise, discharge and performance of its powers, functions and duties under this Act.

Contracts of corporation.

(3) There shall be paid out of the Fund of the corporation—

- (a) all sums of money required for the discharge of the liabilities of the corporation, under the policies of insurance issued by the corporation; and
- (b) all sums of money required to defray any expenditure incurred by the corporation in the carrying on of its

20. (1) A corporation may employ, on such terms and conditions as may be determined by the corporation, such officers and servants as it may be considered necessary for the efficient exercise, discharge and performance of its powers, functions and duties under this Act, and may exercise disciplinary control over any officer or servant of the corporation.

Staff of the corporation

(2) The Minister may transfer an officer or servant employed by the Insurance Corporation to a corporation established under this Act with the consent of that officer or servant, or may transfer an officer or servant employed by a corporation established under this Act to the Insurance Corporation with the consent of that officer or servant, and an officer or servant so transferred shall hold office or service on terms and conditions not less favourable than the terms and conditions on which he was previously employed.

(3) (a) The period of service of any officer or servant under the Insurance

Corporation, immediately preceding the date of transfer of such officer or servant to a corporation established under this Act, shall be deemed to be a period of service under the corporation to which he was transferred.

(b) The period of service of any officer or servant under any corporation established under this Act, immediately preceding the date of transfer of such officer or servant to the Insurance Corporation, shall be deemed to be a period of service under the corporation to which he was transferred.

(4) Where an officer or servant of a corporation is transferred to another corporation by Order made by the Minister under subsection (2), the total amount lying to the credit of the individual account of that officer or servant in the Employees * Provident Fund established under the Employees' Provident Fund Act shall notwithstanding anything to the contrary in section 23 of that Act, be credited to the individual account of that officer or servant in respect of which contributions are required to be remitted under subsection (6) and shall be paid to him when he terminates his services with the corporation to which he has been transferred.

(5) Every corporation shall cause and permit any officer or servant transferred under subsection (2) to any office or service in such corporation to perform and discharge the duties and functions of such office or service and shall, out of its funds, pay the salary and allowances of such officer or servant.

(6) Every corporation shall, in respect of each of its officers and servants, remit to the Employees* Provident Fund established by the Employees' Provident Fund Act contributions of such amounts as may be prescribed by that Act.

Duty of every corporation to reinsure with the Insurance Corporation.

21. (1) Every corporation shall, notwithstanding anything to the contrary in any other written law, reinsure with the Insurance Corporation a percentage of the liability as may be prescribed by regulation

under every contract of insurance entered into or renewed by such corporation, and every such corporation shall be entitled to receive from the Insurance Corporation a commission calculated at such rate as the Insurance Corporation may determine for such reinsurance.

(2) Every corporation shall from time to time furnish to the Insurance Corporation such returns as the Insurance Corporation may require in regard to the reinsurance business done by such corporation with the Insurance Corporation in conformity with the provisions of subsection (1).

22. No person other than a director or a person expressly authorized by the Board shall have the authority to make, draw, accept or endorse any bill of exchange, cheque or order for the payment of money on behalf of the corporation or to enter into any contract so as to impose any liability on the corporation or otherwise to pledge the credit of the corporation.

Persons authorized to act on behalf of corporation.

23. Receipts signed by two Directors or Receipts. by any person expressly authorized by the Board to sign such receipts shall be an effectual discharge of the amounts paid to the corporation.

24. The Insurance Corporation may, on being requested to do so by a corporation, provide such management services as may be required by such corporation for the efficient discharge of its functions and the Insurance Corporation may recover fees for the provision of such services.

Provisions of management services.

25. The profits of a corporation may be invested in such securities or be declared and paid as a dividend on the shares as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.

Profits of a corporation.

26. The Minister may in consultation with the corporation give such general or special directions in writing as he deems necessary as to the performance of the duties and the exercise of the powers of such corporation and such corporation shall give effect to such directions.

Powers of the Minister.

Power of the Minister to call for information.

27. (1) The Minister may from time to time direct any corporation to furnish to him in such form as may be required returns, accounts and other information with respect to the property and business of such corporation and such corporation shall comply with every such direction.

(2) The Minister may from time to time order all or any of the activities of a corporation to be investigated and reported upon by such person or persons as the Minister may appoint and upon such order being made, the Board, and every officer, servant and agent of such corporation shall afford such facilities and furnish all such information to such person or persons as may be necessary to carry out such order.

Application of the provisions of the Companies Ordinance, &c.

28. (1) The provisions of the Companies Ordinance* or any other written law regulating the incorporation of companies shall not apply to a corporation.

(2) Notwithstanding the provisions of subsection (1), the Minister may, whenever he desires to do so by Order published in the Gazette, declare that any one or more of the provisions of such Ordinance or any other written law, for the time being in force relating to companies shall apply to such corporation.

(3) Every Order made by the Minister shall as soon as convenient after the date of its publication in the Gazette be brought before Parliament for approval. Any order which is not so approved shall be deemed to be revoked from the date of such disapproval but without prejudice to anything previously done thereunder.

Indemnity of directors, officers and servants.

29. Every director, officer or servant of a corporation shall be indemnified by such corporation against all losses incurred by him on or in relation to the performance of his duties except such as are caused by his wilful act or default.

Regulations.

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

(2) In particular and without prejudice to the generality of the powers conferred by

subsection (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) the conduct and the management of the affairs of the corporation;
- (b) the control of the business activities of the corporation; and
- (c) any other matter to be prescribed or in respect of which regulations are authorized by this Act 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 publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

31. All officers and servants of the corporation shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the corporation deemed to be public servants.

32. The corporation shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Corporation deemed to be scheduled institution within the meaning of the Bribery Act.

33. In this Part of this Act—

Interpretation.

" Board " means the Board of Directors of a corporation;

" capital" means the capital for the time being of the corporation;

"corporation" means a subsidiary corporation established under section 2 or an independent corporation established under section 3.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

PART III

MISCELLANEOUS

Dissolution of subsidiary corporation.

34. (1) Where the Minister is not satisfied with the manner in which the business of a subsidiary corporation is being carried on or transacted, he may after consultation with the Insurance Corporation, by Order published in the Gazette dissolve the subsidiary corporation.

(2) Where a subsidiary corporation is dissolved by Order made under subsection (1)—

- (a) all movable and immovable property of the subsidiary corporation on the date of publication of the Order shall vest in the Insurance Corporation;
- (b) all contracts of the subsidiary corporation subsisting on the date of the publication of the Order shall be deemed to be contracts of the Insurance Corporation, and all rights and liabilities of the subsidiary corporation under such contracts shall be deemed to be the rights and liabilities of the Insurance Corporation;
- (c) all sums due to the subsidiary corporation on the date of the publication of the Order shall be deemed to be due to the Insurance Corporation and may accordingly be recovered by the Insurance Corporation; and
- (d) all sums due from the subsidiary corporation on the date of the publication of the Order shall be deemed to be due from the Insurance Corporation and may accordingly be recovered from the Insurance Corporation.

(3) Where a subsidiary corporation is dissolved by Order made under subsection (1), the Minister shall, with the concurrence of the Minister in charge of the subject of Finance, determine the amount of

compensation to be paid in lieu of the shares allotted to the workers of such subsidiary corporation.

35. (1) Where the Minister is not satisfied with the manner in which the business of an independent corporation is being carried on or transacted, he may after consultation with such corporation, by Order published in the Gazette, dissolve such corporation.

(2) Where an independent corporation is dissolved by Order made under subsection (1)—

- (a) all movable and immovable property of the corporation on the date of the publication of the Order shall vest in the State ;
- (b) all contracts of such corporation subsisting on the date of the publication of the Order shall be deemed to be contracts of the State and all rights and liabilities of such corporation under such contracts shall be deemed to be the rights and liabilities of the State ;
- (c) all sums due to such corporation on the date of the publication of the Order shall be deemed to be due to the State and may accordingly be recovered by the State ; and
- (d) all sums due from such corporation on the date of the publication of the Order shall be deemed to be due from the State and may accordingly be recovered from the State.

(3) Where an independent corporation is dissolved by Order made under subsection (1), the Minister shall, with the concurrence of the Minister in charge of the subject of Finance, determine the amount of compensation to be paid in lieu of the shares allotted to the workers of such corporation, to any Government department or public corporation.

Dissolution of an independent corporation.

Application of the provisions of Public Corporations (Financial Control) Act to a subsidiary corporation.

36. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of a subsidiary corporation and as if such subsidiary corporation were a public corporation within the meaning of that Act.

Financial year of a subsidiary corporation.

37. The financial year of the subsidiary corporation shall be the calendar year.

Application of the provisions of Public Corporations (Financial Control) Act to an independent corporation.

38. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of an independent corporation.

Financial year of an independent corporation.

39. The financial year of an independent corporation shall be the calendar year.

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

"independent corporation" means an independent corporation established under section 3 ;

"Insurance Corporation" means the Insurance Corporation established by the Insurance Corporation Act;

"public corporation" means any corporation the capital of which is wholly or partly provided by the Government by way of grant, loan or other form;

"subsidiary corporation" means a subsidiary corporation established under section 2.

CHAPTER 39

INFORMERS REWARDS

Ordinances Nos. 1 of 1914, 24 of 1928, 25 of 1930, 32 of 1933. AN ORDINANCE TO MAKE PROVISION FOR THE REWARDING OF INFORMERS IN CERTAIN CASES. {23rd February, 1914}

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

Informer's share of fine. **2.** It shall be lawful for the court before which an offender is convicted of an offence under any of the enactments enumerated in the Schedule to direct in respect of any fine that may be imposed for such offence that any share not exceeding one-half thereof or of so much as shall actually be recovered be awarded to the informer :

Provided that in the case of offences under the Prevention of Cruelty to Animals Ordinance, such direction shall not be inconsistent with any order made by the Minister under section 11 of the said Ordinance ;

Provided further that the Minister may, by Order for that purpose published in the Gazette, direct that the provisions of this section shall, for a period to be specified in

such Order, cease to be operative within the jurisdiction of any particular court in respect of all or any of the offences under the Prevention of Cruelty to Animals Ordinance.

3. All awards which are made under the last preceding section to a grama seva niladhari appointed in writing by the Government Agent or the Assistant Government Agent shall be paid into a general fund for the reward of such grama seva niladharis to be regulated in manner as the Minister shall from time to time direct.

Awards to grama seva niladharis paid into Reward Fund.

4. The Minister in charge of the subject of Justice by Order for that purpose published in the Gazette, may extend the provisions of section 2 hereof to any enactment now in force or hereafter to be enacted.

Power of Minister in charge of the subject of Justice to extend provisions of Ordinance-

[Section 2.]

SCHEDULE

SUBJECT	ENACTMENT
Betting on Horse Racing	The Betting on Horse Racing Ordinance
Butchers	The Butchers Ordinance
Brothels	The Brothels Ordinance
Contagious Diseases	The Contagious Diseases Ordinance
Cruelty to Animals	The Prevention of Cruelty to Animals Ordinance
Dog Registration	The Dog Registration Ordinance
Excise	The Excise Ordinance
Explosives	The Explosives Ordinance
Food Control	The Food Control Act
Forests	The Forest Ordinance
Guides	The Guides Ordinance
Immigrants and Emigrants	The Immigrants and Emigrants Act
Intermeddlers with Suitors	The Intermeddlers with Suitors Ordinance
Knives	The Knives Ordinance
Liquor (taking of on board Sri Lanka ships)	The Liquor (on Board Sri Lanka Ships) Regulation Ordinance
Manufacture of Matches	The Manufacture of Matches (Regulation) Act
Masters Attendant	The Masters Attendant Ordinance
Pawnbrokers	The Pawnbrokers Ordinance
Pearl Fisheries	The Pearl Fisheries Ordinance
Petroleum	The Petroleum Ordinance
Penal Code	The Penal Code, sections 257 to 260
Plant Protection -	The Plant Protection Ordinance

INFORMERS REWARDS

SCHEDULE (contd.)

SUBJECT	ENACTMENT
Poisons and Drugs	The Poisons, Opium and Dangerous Drugs Ordinance
Police	The Police Ordinance
Price Control	The Price Control Act.
Protection of Produce	The Protection of Produce Ordinance
Public Performances	The Public Performances Ordinance
Quarantine	The Quarantine and Prevention of Diseases Ordinance
Rubber Thefts	The Rubber Control Act (Part III)
Seashore Protection	The State Lands Ordinance (Part VIII)
Stamps	The Stamp Ordinance
Tea Thefts	The Tea Control Act (Part IV)
Telecommunications	The Telecommunications Ordinance
Thoroughfares	The Thoroughfares Ordinance
Water Hyacinth	The Water Hyacinth Ordinance
Weights and Measures	The Weights and Measures Ordinance
Wells and Pits	The Wells and Pits Ordinance

CHAPTER 321

INSCRIBED RUPEE STOCK

Ordinances AN ORDINANCE TO PROVIDE FOR THE CREATION OF INSCRIBED RUPEE STOCK TO BE
 Nos. 8 of 1892 ISSUED IN SRI LANKA.
 6 of 1928

[6th September. 1892.]

Shorttitle. **1.** This Ordinance may be cited as the Ceylon Inscribed Rupee Stock Ordinance.

Minister in charge of subject of Finance may raise by means of inscribed rupee stock money which he is authorized to raise by loan.

2. It shall be lawful for the Minister in charge of the subject of Finance, whenever he desires to raise any sum or sums of money, being the whole or any portion of any sum which he may have been or shall hereafter be authorized to raise by way of loan, by any enactment which may have been or at any time may be passed, to raise the same or any part thereof by the creation and issue of inscribed rupee stock, under the provisions of this Ordinance.

Stock to be styled "Ceylon Inscribed Rupee Stock", and issued by the Deputy Secretary to the Treasury.

3. Such stock shall be styled "Ceylon Inscribed Rupee Stock", and shall from time to time be issued by the Deputy Secretary to the Treasury, who is hereinafter defined as "the Registrar", upon the best and most favourable terms that can be obtained, and in such amounts and on such conditions, subject to the provisions of this Ordinance, as the Minister in charge of the subject of Finance may before the issue thereof from time to time direct:

Provided that the interest on such stock shall not exceed four *per centum* per annum.

Inscribed rupee stock to be a charge upon Consolidated Fund.

4. The principal moneys and interest secured by the inscribed rupee stock created under the provisions of this Ordinance are hereby charged upon and shall be payable out of the Consolidated Fund and assets of the Government of Sri Lanka.

When the principal is to be repaid.

5. All the inscribed rupee stock which may be created under the provisions of this Ordinance shall be redeemable at par on a date to be named in that behalf by the

Deputy Secretary to the Treasury when issuing the stock, such date not being later than fifty years from the date of issue. From and after which date all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal shall have been demanded or not.

6. The principal moneys secured by the inscribed rupee stock created under this Ordinance, and the interest thereon, shall be payable at the Treasury at Colombo : Principal and interest where payable.

Provided that it shall be lawful for the Registrar to make such arrangements as the Minister in charge of the subject of Finance may approve for making the interest payable by post dividend warrant at any kachcheri in Sri Lanka.

7. So long as interest shall continue to be payable on any such inscribed rupee stock there shall in each half-year ending with the day on which the interest thereon falls due be appropriated out of the Consolidated Fund a sum equal to one half-year's interest thereon, and the Deputy Secretary to the Treasury shall pay thereout the then current half-year's interest on the day when it falls due. After the date specified in the enactment authorizing an issue of inscribed rupee stock as that on which the contribution to the sinking fund shall commence, there shall be further appropriated out of the said Consolidated Fund in each half-year ending as aforesaid an additional sum for the formation of a sinking fund equal to one-half *per centum* on the total nominal amount of such inscribed rupee stock, and that sum shall be vested in the hands of the Deputy Secretary to the Treasury and one other public officer Appropriation out of Consolidated Fund of sums to meet interest and principal.

to be nominated by the Minister in charge of the subject of Finance, who are hereby appointed trustees of the sinking fund.

further payments of contributions to the said sinking fund:

Investment of sinking fund.

8. The contributions to the sinking fund shall be applied as follows:—

Provided always that contributions to the sinking fund shall be recommenced if the trustees shall at any time inform the Minister in charge of the subject of Finance that it is necessary.

(a) if the price of the inscribed rupee stock be below par at the time when the contributions are received, the trustees shall, if practicable, purchase therewith the inscribed rupee stock in the market, and shall cancel in the register the stock so purchased ;

11. All expenses of or incidental to the management of the sinking fund or to the repayment of the principal moneys borrowed shall be paid out of the sinking fund. Expenses to be paid out of sinking fund.

(b) the trustees shall invest so much of the contributions as shall not be applied in the purchase of inscribed rupee stock, and the dividends, interest, or produce of such investments, in the purchase of such debentures, stock, or other security, as may from time to time be approved by the Minister in charge of the subject of Finance, and shall hold such fund in trust for repayment of the principal moneys for the time being secured by the inscribed rupee stock.

12. The stock to which this Ordinance applies shall be transferred as follows :— Transfer of stock-

(a) the transfer shall be made by an agreement in writing which shall be signed by the transferor and transferee, which shall be attested by a credible witness, but no transfer under such agreement shall be registered without the production of the stock certificate referred to in section 22;

(b) the person becoming entitled to any stock or dividend thereon in consequence of the death, bankruptcy, or marriage of the stockholder, or of any devolution in law from the stockholder, or otherwise than by transfer of the stock, shall produce such evidence of his title as may be reasonably required by the Registrar.

Any deficiency in sinking fund to be made good out of Consolidated Fund.

9. In case the sinking fund shall be insufficient to provide the necessary funds for the redemption of the inscribed rupee stock when it shall have become due, the deficiency shall be made good out of the Consolidated Fund and assets of the Government of Sri Lanka.

13. The Registrar may, for such period not exceeding fourteen days as he may from time to time fix previous to each payment of dividend on stock to which this Ordinance applies, close the register of the stock as regards transfers, upon giving not less than seven days' notice of such closing by advertisement in the Gazette and in one newspaper published in Sri Lanka. Closing of register for dividend.

Ccsher of sinking fund contribution.

10. Notwithstanding anything to the contrary contained in this Ordinance, if at any time the trustees of the sinking fund of any Ceylon Inscribed Rupee Stock issued or to be issued under the provisions of this Ordinance are satisfied that the value of the sinking fund will be sufficient with further accumulations of interest but without further payments of contributions to enable the loan to be redeemed out of the proceeds of the sinking fund when the same shall fall due to be redeemed, the Minister in charge of the subject of Finance may suspend

The persons who on the day of such closing are inscribed as stockholders shall, as between them and their transferees of stock, be entitled to the dividend then next payable thereon.

14. Where stock to which this Ordinance applies is standing in the name of an infant or person of unsound mind jointly with any person not under legal Dividends in case of infancy, &c., of a joint stockholder.

disability, a power of attorney for the receipt of the dividends on the stock shall be sufficient authority in that behalf, if given under the hand of the person not under disability, and attested.

The Registrar, before acting on the power of attorney, may require proof to his satisfaction of the alleged infancy or unsoundness of mind, by the affidavit of competent persons made before a Justice of the Peace, or in such other manner as he may reasonably require.

STOCK CERTIFICATES TO BEARER

Stock certificates to bearer.

15. The Registrar, if so authorized by the Minister in charge of the subject of Finance, shall, on application and payment of the fees, if any, chargeable in respect of the certificate, grant to a stockholder a certificate (in this Ordinance called " a stock certificate to bearer ") which shall entitle the bearer to the Stock therein described, and shall be transferable by delivery.

There shall be attached to such certificate coupons entitling the bearer or person named in the coupons to the dividends on the stock for a limited period, such interest to be payable only on the production of the certificate with its unpaid coupons complete at the Treasury at Colombo.

Any stock in respect of which a stock certificate to bearer has been so issued shall, so long as such certificate is outstanding, cease to be dealt with through the medium of the register.

Renewal of coupons or certificate.

16. On the expiration of the period for which the coupons attached to a stock certificate to bearer have been issued under this Ordinance, the certificate may be exchanged for another certificate with coupons for a further period.

Conversion intonominal stock of stock in certificate to bearer.

17. On delivery to the Registrar of a stock certificate to bearer issued under this Ordinance, and of all unpaid coupons belonging thereto, the Registrar shall enter the bearer in the register as proprietor of the stock described in the certificate, and thereupon that stock shall become transferable and the dividends thereon payable as if no stock certificate to bearer has been issued in respect of that stock.

18. A trustee shall not apply for or hold a stock certificate to bearer issued under this Ordinance unless expressly authorized to do so by the terms of his trust. But this provision shall not impose on the Registrar an obligation to inquire whether a person applying for a stock certificate to bearer is or is not a trustee, or subject the Registrar to any liability in the event of his issuing a stock certificate to bearer to a trustee or invalidate any stock certificate to bearer issued.

Trustees not to apply for stock certificate to bearer.

19. If any stock certificate to bearer issued under this Ordinance is lost, mislaid, or destroyed, the Registrar shall, on such indemnity being given as he may reasonably require, and on payment of the expense of the issue, issue a fresh stock certificate to bearer in the place of the certificate so lost, mislaid, or destroyed.

Loss of stock certificate to bearer.

20. Stock described in a stock certificate to bearer issued under this Ordinance shall, save as relates to the mode of transfer and payment of dividends, be subject to the same incidents in all respects as if it had continued to be transferable in the register.

Stock in certificate to bearer to have incidents of other stock, except as to transfers. Ac.

21. The Deputy Secretary to the Treasury shall be the Registrar under this Ordinance, and shall keep a register at his office in which all the rupee stock shall be inscribed at the time of issue in the names of the stockholders, and he may as such Registrar, before the inscription of any stock, with the consent and approval of the Minister in charge of the subject of Finance, make with respect to the transfer and management of such stock regulations not inconsistent with the provisions of this Ordinance. It shall be lawful in and by such regulations to prescribe fees to be paid on such transfer or otherwise.

Registry of stock.

A printed copy of the documents containing the authority for and conditions of the issue of stock to which this Ordinance applies, and of all regulations with respect to the transfer of such stock or otherwise, in relation to such stock, shall be entered in the register of the stock.

22. On the creation and issue to any person of any inscribed rupee stock under the provisions of this Ordinance, such

Certificates to stockholders.

person shall be entitled to a certificate, under the hand of the Registrar, of his title to such stock.

Register to be evidence.

23. The register kept in pursuance of this Ordinance shall on its mere production from the custody of the Registrar be evidence of all matters entered therein, and, as regards persons entered therein as proprietors of stock to which this Ordinance applies, of the title of those persons to the stock-

Notice of trust not receivable.

24. No notice of any trust in respect of any stock to which this Ordinance applies shall be entered in the register or receivable by the Registrar or by the Government of Sri Lanka.

Information to be given respecting register.

25. (1) The Registrar shall keep in a separate book a list of the stockholders on whose stock the dividends have been unclaimed for ten years, together with their registered addresses and description, and such list shall be open for inspection at the usual hours of transfer upon payment of such fee, not exceeding five rupees, as may be fixed by the regulations.

(2) The Registrar shall give within a reasonable time after application a certificate stating the following particulars in relation to any stock of which he is Registrar, or any part of such stock, or such of those particulars as may be required by the applicant, namely—

- (a) the total amount issued and the total inscribed in the register; and
- (b) the total number of the persons in whose names the stock or part is originally inscribed, or, after the register of such stock or part has been once closed as regards transfers, the total number of the stockholders at the last preceding date at which the transfer books were closed; and
- (c) the total number of each class of persons in whose names the stock or part is originally inscribed, or, after the register of the stock or part has been once closed as regards transfers, of each class of

stockholders at the last preceding date at which the transfer books were closed, the classification being according to the amount held, omitting fractions of two thousand rupees; and

- (d) a copy or extract certified by the Registrar or by some officer appointed for the purpose to be a true copy or extract of any conditions or regulations required by this Ordinance to be entered in the register:

Provided that the Registrar shall not be required to give any such certificate in relation to any stock issued under the provisions of this Ordinance, or part of such stock, until after the expiration of one month after the stock or part of the stock to which the certificate relates has been inscribed.

(3) Within a reasonable time after the application of any person who is a stockholder of any stock to which this Ordinance applies the Registrar shall give him a list of the registered names and addresses of the stockholders of such stock at the last preceding date at which the register was closed as regards transfers-

(4) The Registrar, before giving a certificate or list under this section, may require payment of such a fee not exceeding five rupees and a further sum of fifty cents for every folio of one hundred and twenty words, or in the case of a list of names and addresses of ten cents for each name and address, as the Registrar may from time to time fix.

(5) Any certificate or list given under this section shall be admissible in evidence.

MISCELLANEOUS

26. The Registrar shall from time to time under the directions of the Minister in charge of the subject of Finance make arrangements for all or any of the following things:—

- (a) for inscribing rupee stock in his books;

Creation, inscription, issue, conversion, and transfer of inscribed rupee stock.

- (b) for managing the creation, inscription, and issue of inscribed rupee stock;
- (c) for paying interest on inscribed rupee stock and managing transfers thereof;
- (d) for issuing inscribed stock certificates to bearer and, as often as occasion shall require, reissuing or reinscribing rupee stock and reissuing inscribed stock certificates.

demand or endeavour to have any such share or interest transferred, or to receive any dividend or money payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the cases aforesaid to defraud; or who shall

- (b) falsely and deceitfully personate any Personation. owner of any share or interest of or in any stock to which this Ordinance applies, or any owner of any dividend or money payable in respect of any such share or interest as aforesaid belonging to any such owner, and shall thereby transfer or endeavour to transfer any share or interest of or in any such stock belonging to any such owner, or thereby receive or endeavour to receive any money due to any such owner as if such offender were the true and lawful owner; or who shall

GENERAL PROVISIONS

Exemption from stamp duties.

27. All documents whatsoever made or used under the provisions of this Ordinance shall be free from stamp duty, anything in any other enactment to the contrary notwithstanding.

Persons making false declarations how punishable.

28. If any person shall make and subscribe any declaration required to be made on the doing of any act, matter, or thing, or for verifying any statement whatsoever required to be done or made, or for use for any purpose, under the provisions of this Ordinance, and shall wilfully make therein any false statement as to any material particular, the person making the same shall be guilty of an offence, and being convicted thereof shall be liable at the discretion of the court to simple or rigorous imprisonment for any term not exceeding three years.

- (c) forge any name, handwriting, or signature purporting to be the name, handwriting, or signature of a witness attesting any transfer of any stock to which this Ordinance applies, or attesting the execution of any power of attorney, or other authority, to transfer any share or interest of or in any such stock, or to receive any dividend or money payable in respect of any such share or interest, or shall offer, utter, dispose of, or put off any such power of attorney, or other authority with any such forged name, handwriting, or signature thereon knowing the same to be forged ; or who shall

Forgery of witness's signature, &c.

Frauds and forgery.

29. Whosoever shall—

Forgery of transfer, &c.

- (a) forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock to which this Ordinance applies, or which may be transferable under this Ordinance, or shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest in any such stock, or to receive any dividend or money payable for or in respect of any such share or interest, or who shall

- (d) wilfully make any false entry in, or wilfully alter any word or figure in, any register or certificate of or relating to any stock to which this Ordinance applies, or shall wilfully make any transfer of any share or interest of or in any such stock in the name of any person not being

False entries in register, &c

the true and lawful owner of such share or interest, with intent to defraud,

shall be guilty of an offence, and being convicted thereof shall be liable at the discretion of the court to simple or rigorous imprisonment for any term not exceeding five years.

30. All offences under this Ordinance are hereby declared to be cognizable and bailable within the meaning of those terms as defined in section 2 of the Code of Criminal Procedure Act, and shall be triable by the Magistrates' Court, which is hereby authorized to inflict the penalties hereinbefore provided, anything in section 14 of the said Act to the contrary notwithstanding.

Offences to be cognizable and bailable and triable by Magistrates' Courts.

CHAPTER 40

INTERMEDDLERS WITH SUITORS

Ordinances Nos.11 of 1894, 35 of 1917.

AN ORDINANCE TO PROVIDE FOR THE SUPPRESSION OF INTERMEDDLERS WITH SUITORS IN COURTS OF JUSTICE.

[5th December, 1894.]

Short title.

1. This Ordinance may be cited as the Intermeddlers with Suitors Ordinance.

this Ordinance has been committed within the territorial jurisdiction of such court, when such court shall proceed with the inquiry as provided in Chapter XV of the Code of Criminal Procedure Act, and shall in due course forward the proceedings taken in the case to the Attorney-General, whereupon the Attorney-General may, in his discretion, direct the accused to be either discharged or committed for trial before the High Court having jurisdiction, or may make any other order as provided in Chapter XXXIII of the Code of Criminal Procedure Act.

Offences under this Ordinance.

- 2.** Any person who—
- (o) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured him employment as such legal practitioner ;
 - (b) retains any gratification, or withholds without just cause a portion, out of remuneration entrusted to be paid to any legal practitioner for such employment ;
 - (c) not being authorized under any law to practise in any court, solicits or receives from any person any gratification in consideration of procuring or having procured the employment of a legal practitioner as such.;
 - (c) being a legal practitioner, tenders or gives any gratification, or consents to the retention of any gratification, for procuring or having procured the employment as such practitioner of himself or any other legal practitioner,

5. Any person who, without proper excuse, the proof whereof shall lie on him, accosts, or attempts by words, signs, or otherwise to meddle with, any suitor or other person having business, actual or prospective, in any court, with respect to his suit or business, shall be guilty of an offence, and be liable on conviction to be punished with a fine not exceeding one hundred rupees.

Accosting without proper excuse persons having business actual or prospective in courts an offence.

6. Any person charged with any offence under 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.

Accused may give evidence on his own behalf.

shall be guilty of an offence, and shall on conviction be punished with a fine not exceeding five hundred rupees.

7. In this Ordinance, unless there be something repugnant in the subject or context—

Interpretation.

Legal practitioner convicted under this Ordinance liable to be removed from office.

3. Any legal practitioner who shall be convicted of any offence under this Ordinance shall be liable to be removed or suspended from office by the Judges of the Supreme Court, on the motion of the Attorney-General or Solicitor-General,

" court " means the Supreme Court, the Court of Appeal, the High Court, any District Court, Magistrate's Court, or Court of a Municipal Magistrate, or any Primary Court ;

Proceedings in court in regard to offences.

4. It shall be competent to any person to prefer to a Magistrate's Court a complaint or report that an offence under section 2 of

" legal practitioner " means an attorney-at-law or any person authorized by any law for the time being to practise in any court of Sri Lanka.

CHAPTER 433
KANDY CHURCH

Ordinances AN ORDINANCE TO PROVIDE FOR A CHURCH IN KANDY.
Nos.11 of 1842,
21 of 1910,
7 of 1914,
17 of 1930,
2 of 1931.

[29th September. 1842.]

Preamble. Whereas several persons have, with the concurrence of the Lord Bishop of the diocese, subscribed certain sums of money for the purpose of erecting a church at Kandy, for the celebration of Divine worship according to the rites of the United Church of England and Ireland, and by some minister thereof duly appointed by Government: And whereas the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, has consented to grant from the public chest a sum equal to the amount of subscriptions paid up, provided that such sum shall not exceed the sum of £ 1,500 : And whereas it is expedient to provide for the immediate appointment and continual succession of trustees for the direction of the building of the said church, according to such plan and specification as shall be agreed upon between His Excellency the Governor of this Island and the trustees:

3. Before any sum or sums of money shall be issued as aforesaid, the parties to subscribing shall, by plurality of votes, elect from among themselves three persons to act as trustees; and such election shall take place at a meeting of the subscribers, of the time and place of holding which meeting fourteen days' notice shall have been previously published in the Gazette; and upon intimation being given to the Governor of the election of such three persons as aforesaid, the said Governor shall thereupon nominate three other persons to act as trustees; and the real estate in the said church, and in all lands and hereditaments thereunto belonging shall be thereupon conveyed to the said trustees so elected and nominated and their successors for ever, duly elected and nominated as hereinafter provided, in trust for the purposes of the said church.

Short title. 1. This Ordinance may be cited as the Kandy Church Ordinance.

Governor empowered to issue £ 1,500 towards building the church. 2. It shall be lawful for the Governor by warrant under his hand to authorize the issue from the Treasury of this Island of any sum or sums not exceeding in all £ 1,500, to be applied, under the direction of trustees to be appointed as hereinafter provided, to the building of a church in Kandy :

Provided that no such issue shall be made until a moiety of the estimated costs thereof shall have been raised by subscription and lodged in the Treasury.

4. And whereas a provisional committee of management for the purposes of the said church was appointed at a certain general meeting of the subscribers to the said church held at the Kandy Library on the 27th day of January, 1841; it is therefore enacted that upon the election and nomination of trustees as aforesaid the said provisional committee shall deliver over to the said trustees all deeds, books, plans, papers, and vouchers relating to the said church in their custody or power, and all and any sums of money, donations, or subscriptions, given or subscribed for the purpose aforesaid, in their possession or control, and the said committee of management, and the office, and duties thereof, shall thereupon cease and determine.

Trustees to be elected annually.

5. The said trustees so elected and nominated as aforesaid shall continue to be and to act as trustees until the last Monday in the month of January, 1844; and upon such day such trustees shall cease to have any power or authority so to act; and three persons shall be elected at a general meeting to be held on that day, and three other persons shall be nominated by the Governor as soon as convenient thereafter, to be the trustees of the said church for the year immediately ensuing; and a fresh election and nomination of trustees shall in like manner take place within every last week of the month of January thereafter or as soon thereafter as may be convenient, and copies of the minutes of every election or nomination of a trustee which shall take place under the provisions of any clause in this Ordinance shall be transmitted without delay to the Registrar-General and the Registrar of the Bishop of the diocese :

Provided always that no person shall be elected a trustee at any general meeting before the completion of the said church who shall not have paid up a subscription thereto of at least five pounds, or after its completion who shall not have paid the sum of fifteen rupees to the funds of the said church during the year prior to his election nor any person who shall not be a member of the Church of the Province of India, Burma and Ceylon hereinbefore referred to as the United Church of England and Ireland.

Clergyman to be ex officio chairman of trustees.

6. The clergyman for the time being duly appointed to the said church, or during his absence the clergyman duly appointed to officiate for him, shall at all times be ex officio chairman of the trustees, but shall not have the power of voting by reason of being such chairman, except in cases where the votes of the trustees present shall be equal.

Vacancies occasioned by death, resignation, or removal of trustees, how to be filled.

7. Whenever any trustee shall die or shall resign, or shall leave Sri Lanka, then, in case such trustee shall have been originally elected at a general meeting, his vacancy shall be filled by some other person duly qualified in like manner as such trustee, to be elected at a general meeting to be called for that purpose as soon as may be convenient by the continuing trustees, or the

major part of them; and, in case such trustee shall have been originally nominated by the Governor, his vacancy shall be filled as soon as may be convenient by some other person duly qualified, to be nominated in like manner:

Provided always that if such general meeting shall not be called within one month after the death, resignation, or departure of such trustee from Sri Lanka, it shall be lawful for the Governor to nominate some person duly qualified as aforesaid to be a trustee.

8. The trustees for the time being duly nominated and elected as aforesaid, or the major part of them, are hereby authorized and required to set apart, as soon as conveniently may be after the completion of the said church, one pew, containing not more than six sittings nor less than four, for the use and occupation, free from all charges, of the clergyman licensed to officiate in the said church; and the remaining sittings, after due provision shall have been made for the accommodation of the Governor and of the military, shall be assigned to the trustees for the time being and their successors for the purposes hereinafter mentioned.

Sittings in church, how to be appropriated.

9. The trustees for the time being duly nominated and elected as aforesaid, or the major part of them, are hereby authorized and required from and after the 1st day of January, 1931, to set apart the said remaining sittings free of any charge whatever to the use and accommodation of all worshippers at the said church, reserving however to those persons who have prior to the said date rented pews or sittings in the said church, and desire to retain the same, the right to do so, so long as they continue to pay in future a subscription of at least five rupees annually for each sitting to the funds of the said church.

Remaining sittings to be set apart to the use of all worshippers.

10. Every subscriber towards the building of the said church to the amount of not less than fifty rupees shall have a right in the first instance to become a renter of a pew or sitting in preference to any other person who shall not have so subscribed, and such subscribers shall, amongst themselves, have priority in the choice of

Subscribers of Rs.50 to have property of choice of sittings.

pews or sittings, not exceeding six sittings, according to the amount of their subscriptions, the subscriber to the larger amount to have the prior choice, and the choice of subscribers to an equal amount to be determined, if need be, by lot.

Party having engaged a sitting not to be disturbed.

11. Any person having engaged any pew or sitting, and continuing to pay rent for the same according to the rate fixed, and also conducting himself or herself in the said church so as not wilfully or maliciously to disturb the performance of public worship, or to molest any part of the congregation attending the same, shall not be, under any pretence whatever, removed or ejected without his or her own consent from the occupation of such pew or sitting, at all times when the said church shall be open for the performance of public worship, the ministration of any sacrament, or other rite or ceremony, according to the use of the United Church of England and Ireland :

Provided nevertheless, that if any person having engaged any pew or sittings in the said church under agreement to pay for the same according to the rate or rent assessed thereupon, shall suffer such rent to fall into arrear, and to continue unpaid for three months after the same shall have been demanded by the trustees, or by any person empowered by them or the major part of them, or if any person having engaged as aforesaid any such pew or sittings shall refuse to pay for the same such increased rate of rent as the trustees, according to the provisions hereinbefore described, shall have assessed and affixed, or if any person engaging and occupying any such pew or sittings, and continuing to pay the rent assessed upon the same, shall by any unsuitable noise, gesture, or deportment, wilfully and irreverently interrupt the celebration of public worship, or shall designedly and habitually disturb any part of the congregation within the said church, in all such cases it shall and may be lawful for the trustees to issue a monition to every such defaulter or offender, and in case such defaulter or offender shall not forthwith pay all such arrears, or shall not amend and desist from the practice so complained of, it shall be lawful for the said trustees to declare such pew or sittings occupied by the party complained of to be vacant.

12. It shall and may be lawful for the major part of the trustees, with the previous consent of the Bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monuments to be erected or placed in such parts of the said church, 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 the said church, for such permission by the person or persons desiring to erect or place any monument in the said church or enclosed ground about the same, or in the said burial ground or to dig and make any vault in the said burial ground, of such charges as are contained and set forth in the Schedule, over and above the fees which may be legally demanded for burial; and it shall be lawful for any person or persons erecting or placing any monument in the said 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.

Trustees authorized to permit the erection of monuments and digging of vaults with the previous consent of the Bishop of the diocese.

13. It shall not be lawful to bury any body within the said church or within the enclosed ground about the same.

Bodies not to be buried within or near the church.

14. It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required to collect and gather, or cause to be collected or gathered, all sums of money which shall be due for pews or sittings in the said church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments belonging to the said church, and all fees or payments for monuments or vaults, and to apply for the said sums and to sue for the recovery of the same from all persons who shall fail or refuse to pay the same ; and the said trustees shall, out of the said sums so received or recovered, regularly pay the salaries allotted to all lay persons holding any office in or about the said church, according to such rates and at such periods as shall be determined upon by the majority

Trustees to collect all dues to the church, and to appropriate them in payment of salaries, repairs, &c.

KANDY CHURCH

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of the said trustees, and shall apply the surplus in such repairs and such improvement of the said church and premises as shall to them appear most expedient.

Power to trustees to acquire property and maintain parsonage, schools, and missions, &c., out of income and collections.

15. (1) It shall be lawful for the said trustees, after defraying such necessary expenses as are specified in section 14, to spend any income, rents, revenues, interest, fees, collections, or subscriptions, or any other funds which may come into their hands as trustees, 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 the said church, or in the erection or purchase of a parsonage for the use of the clergyman of the said church, or for the maintenance of such parsonage and of schools or missions attached to the said church, or on any other religious work connected with the said church.

Power to trustees to lease real property for a term not exceeding ninety-nine years.

(2) 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 over or affecting any such estate or property, for the purposes of their trust, 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 nonpayment 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.

(3) It shall be lawful for the said trustees on the death, retirement, removal, or incapacity of the clergyman of the said 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.

(4) 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.

16. It shall be lawful for the trustees for the time being, or the major part of them, 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 at Kandy " or " the trustees of church at Kandy " (describing the same by its name, after it shall have been named at consecration), as the case may require, without specifying the Christian or surnames 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 or actions, the cause of which shall rise 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.

Actions to be brought by and against trustees.

17. One person, not being a trustee, shall be elected at a general meeting to be called by the trustees immediately after the completion of the building of the said church, to be an auditor of the accounts rendered by the trustees of the said building; and one other person, not being a

Auditors to be elected annually.

trustee, shall be nominated by the Governor to be an auditor for the same purpose; and one person shall thereafter be elected at a general meeting in the month of December in every year to be an auditor of the yearly accounts of the said trustees ; and one other person, not being a trustee, shall be thereupon nominated by the Governor to be an auditor for the same purpose and during the same period.

holding such general meeting shall be affixed in some conspicuous part of the said church.

20. The right of voting at every general meeting shall be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such general meeting, and that from and after such time as the said church shall have been reported to be completed and fit for use the right of voting shall be vested in persons who have paid during the previous year a subscription of at least five rupees to the funds of the said church, being members of the church of the Province of India, Burma and Ceylon:

Who may vote at general meetings.

Provided always that no such subscriber or person shall on any occasion be allowed to give more than one vote.

21. No person shall be suffered to sing or say the common or open prayer, or to administer the sacraments, or to preach any sermon in the said church, except the clergyman duly appointed to the said church, or some clergyman duly authorized to officiate for him.

No person to read prayers or preach except clergyman or person officiating for him.

22. 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.

Trustees to keep annual accounts, and to submit them, with auditors' report, at a general meeting every year.

18. The 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 auditors, or either of them, may inspect at all reasonable times; and a statement of accounts for the previous financial year, together with any report of the auditors or either of them thereon, shall be laid before the general annual meeting to be held within the last week of the month of January, or as soon thereafter as may be convenient.

Trustees to call a general meeting upon receiving a requisition signed by twenty subscribers or renters of sittings.

19. It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required, to call a general meeting of the persons who have paid during the previous year a subscription of at least five rupees to the funds of the said church, being members of the church of the Province of India, Burma and Ceylon, within twelve days after receiving any requisition in writing to that effect, signed by not less than twenty of such persons; and ten days' notice of the time and place of

[Section 12.]

SCHEDULE

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.

A raised tomb over a vault, for each person it is capable of containing, fifteen rupees.

CHAPTER 71

KANDYANLAW

Ordinances
Nos, 39 of 1938,
25 of 1944.

AN ORDINANCE TO DECLARE AND AMEND THE KANDYAN LAW IN CERTAIN RESPECTS.

[1st January. 1939.]

Short title and
application of
Ordinance.

1. (1) This Ordinance may be cited as the Kandyan Law Declaration and Amendment Ordinance.

cancel or revoke in whole or in pan any gift, whether made before or after the commencement of this Ordinance, and such gift and any instrument effecting the same shall thereupon become void and of no effect to the extent set forth in the instrument of cancellation or revocation:

(2) This Ordinance shall apply to persons subject to the Kandyan law.

Interpretation-

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

(a) "gift" means a voluntary transfer, assignment, grant, conveyance, settlement, or other disposition *inter vivos* of immovable property, made otherwise than for consideration in money or money*s worth,

Provided that the right, title, or interest of any person in any immovable property shall not, if such right, title, or interest has accrued before the commencement of this Ordinance, be affected or prejudiced by reason of the cancellation or revocation of the gift to any greater extent than it might have been if this Ordinance had not been enacted.

(b) "donor" means a person who has made a gift;

(c) "donee " means a person in whose favour a gift has been made ;

(2) No such cancellation or revocation of a gift effected after the commencement of this Ordinance shall be of force or avail in law unless it shall be effected by an instrument in writing declaring that such gift is cancelled or revoked and signed and executed by the donor or by some person lawfully authorized by him in accordance with the provisions of the Prevention of Frauds Ordinance or of the Deeds and Documents (Execution before Public Officers) Ordinance.

Method of
revocation.

(d)"the commencement of this Ordinance " means the 1st day of January, 1939.

I — TRANSFER OF PROPERTY

Validity of
deeds of
disposition not
to be affected
by absence of
clause of
disinherison,

3. Any deed or instrument, executed after the commencement of this Ordinance, whereby any property, movable or immovable, is transferred, assigned, granted, conveyed, settled, or otherwise disposed of, shall be of full force and effect according to the tenor of such deed or writing notwithstanding the absence therein of any clause providing, expressly or otherwise, for the disinherison of the heirs of the person executing such deed or instrument.

5. (1) Notwithstanding the provisions of section 4 (1), it shall not be lawful for a donor to cancel or revoke any of the following gifts where any such gift is made after the commencement of this Ordinance :—

Deeds of gift
•which cannot
be revoked.

Revocation of
deeds of gift.

4. (1) Subject to the provisions and exceptions hereinafter contained, a donor may, during his lifetime and without the consent of the donee or of any other person,

(a) any gift by virtue of which the property which is the subject of that gift shall vest in the trustee or the controlling *viharadhipati* for the time being of a temple under the provisions of section 20 of the

Gift to a
temple.

Buddhist Temporalities Ordinance or in any *bhikkhu* with succession to his sacerdotal pupil or pupils or otherwise than as *pudgalika* for the benefit of himself and his heirs, executors, administrators or assigns;

Gift in consideration of marriage.

- (b) any gift in consideration of and expressed to be in consideration of a future marriage, which marriage has subsequently taken place ;

Gift effecting a charitable trust

- (c) any gift creating or effecting a charitable trust as defined by section 99 of the Trusts Ordinance ;

Gift where right to revoke is renounced.

- (d) any gift, the right to cancel or revoke which shall have been expressly renounced by the donor, either in the instrument effecting that gift or in any subsequent instrument, by a declaration containing the words)
CFOioS® " or words of substantially the same meaning or, if the language of the instrument be not Sinhala, the equivalent of those words in the language of the instrument:

Provided that a declaration so made in any such subsequent instrument shall be of no force or effect unless such instrument bears stamps to the value of five rupees and is executed in accordance with the provisions of the Prevention of Frauds Ordinance or of the Deeds and Documents (Execution before Public Officers) Ordinance.

-(2) Nothing in this section shall affect or be deemed to affect the revocability of any gift made before the commencement of this Ordinance.

Compensation for revocation,

6. (1) Upon the cancellation or revocation of any gift, the donor shall be liable to pay to the donee compensation in such sum as shall represent the cost of any improvements to the property effected by the donee, after deducting the rents and profits received by him, and the expenses

incurred in the fulfilment of the conditions, if any, attached to the gift, provided that if the donee has made default in the fulfilment of any such conditions, no compensation shall be payable to him in respect of the improvements or otherwise.

(2) Such compensation shall be payable to any donee otherwise entitled thereto whether or not he would be an heir at law of the donor in the event of such donor dying intestate,

(3) In this section " donee " includes any person who has succeeded to the title of the donee under the gift.

II — ADOPTION*

7. (1) No adoption effected after the commencement of this Ordinance shall avail in law to create any right or liability unless it be evidenced by an instrument in writing with the consent of the person adopted expressed in the instrument and signed by both the adopter and the person adopted, in the presence of—

Method of adoption

- (a) a District Judge, a Judge of a Family Court or a Judge of a Primary Court; or

- (b) a licensed notary and two witnesses:

Provided that if the person adopted be a minor, such consent may be given and such instrument signed on his behalf by his parents or, if only one parent is alive, by that parent; but if there is no surviving parent or if either of his parents cannot be found or is incapable of acting in this behalf by reason of unsoundness of mind, ill health, or other incapacity, the District Court, Family Court or Primary Court having local jurisdiction over the place where the minor ordinarily resides may, upon petition made to such court by any person interested and after such inquiry as the court may deem necessary, appoint any person or persons to give such consent and to sign such instrument.

For the purposes of the Civil Procedure Code or of the Primary Courts' Procedure Act and of the Stamp Ordinance

• See also section 16 of the Adoption of Children Ordinance.

an application to the District Court, Family Court or Primary Court under this section shall be deemed to be an action of the value of one hundred rupees.

(2) No stamp duty shall be payable or chargeable in respect of any instrument of adoption executed in accordance with the provisions of subsection (1) or of any application to a court made under that subsection.

Rights of person adopted.

8. (1) On the death of the adopter intestate, a person duly adopted, whether before or after the commencement of this Ordinance, shall have such right of succession to his estate as if he were a legitimate child of the adopter, that is to say, if the adopter leave him surviving no child or descendant of a deceased child, then as an only child, or if the adopter leave a child or children or a descendant of a deceased child, then to the same extent and in like manner as a child, and if married in *binna* or in *diga* as the case may be, then as a child so married ; but the person adopted shall, by virtue of the adoption, have no right of succession to any person other than the adopter.

Adopter not to succeed.

(2) The adopter shall not, by virtue of the adoption, acquire any right to succeed to the estate or any part thereof of the person adopted on his death intestate.

Person adopted succeeds to own parents or relations.

(3) Notwithstanding the adoption, the person adopted shall continue to have such right of succession to his or her own parent or parents, or any other person, as he or she would have had if the adoption had not been effected.

Adoption not to be revoked.

(4) A duly effected adoption shall not be cancelled or revoked, and no cancellation or revocation shall affect any right or liability arising out of the adoption.

III — MARRIAGE

Binna and diga marriages.

9. (I) A marriage contracted after the commencement of this Ordinance in *binna* or in *diga* shall be and until dissolved shall continue to be, for all purposes of the law governing the succession to the estates of deceased persons, a *binna* or a *diga* marriage, as the case may be, and shall have

full effect as such ; and no change after any such marriage in the residence of either party to that marriage and no conduct after any such marriage of either party to that marriage or of any other person shall convert or be deemed to convert a *binna* marriage into a *diga* marriage or a *diga* marriage into a *binna* marriage or cause or be deemed to cause a person married in *diga* to have the rights of succession of a person married in *binna*, or a person married in *binna* to have the rights of succession of a person married in *diga*.

(2) Where after the commencement of this Ordinance a woman leaves the house of her parents and goes out in *diga* with a man, but does not contract with that man a marriage which is valid according to law, she shall not by reason only of such departure or going out forfeit or lose or be deemed to have forfeited or to have lost any right of succession to which she is or was otherwise entitled on the death of any person intestate.

IV — INHERITANCE : IMMOVABLE PROPERTY

10. (1) The expressions ' "*paraveni* property" or "ancestral property" or "inherited property" and equivalent expressions shall mean immovable property to which a deceased person was entitled—

- (a) by succession to any other person who has died intestate, or
- (b) under a deed of gift executed by a donor to whose estate or a share thereof the deceased would Have been entitled to succeed if the donor had died intestate immediately prior to the execution of the deed, or
- (c) under the last will of a testator to whose estate or a share thereof the deceased would have been entitled to succeed had the testator died intestate:

Provided, however, that if the deceased shall not have left him surviving any child or descendant, property which had been the acquired property of the person from whom it passed to the deceased shall be deemed acquired property of the deceased.

Partition of *paraveni* property.

(2) Where the *paraveni* property of any person includes a share in any immovable property of which that person is a co-owner, any divided part of or interest in that property which may be assigned or allotted to that person by any deed of partition executed, or by any decree for partition entered by a court, after the commencement of this Ordinance, shall for all purposes be and be regarded as *paraveni* property of that person.

be entitled to maintenance out of the *paraveni* property of the deceased but shall not by reason of such re-marriage forfeit her aforesaid life estate in the acquired property;

Acquired property.

(3) Except as in this section provided, all property of a deceased person shall be deemed to be acquired property.

(c) should the surviving spouse be an *ewessa* cousin of the deceased intestate, she shall not thereby become entitled to any share in the estate larger than that to which she would otherwise have become entitled •

Widow an *ewessa* cousin.

" Paternal *paraveni* ".
" maternal *paraveni* ".

(4) The expressions " paternal *paraveni* " and " maternal *paraveni* " and similar or equivalent expressions shall be deemed to mean *paraveni* property as hereinbefore described derived from or through the father or from or through the mother, as the case may be.

(d) in the event of the deceased leaving him surviving no other heir, the surviving spouse shall succeed to all his property both *paraveni* and acquired.

When widow married in *diga paraveni*

Widow.

11. (1) When a man shall die intestate after the commencement of this Ordinance leaving a spouse him surviving, then—

(2) In this section " maintenance " when used with reference to any property, whether *paraveni* or acquired, means maintenance out of the income of such property.

(a) the surviving spouse shall be entitled to an estate for life in the acquired property of the deceased intestate, and, if there be no acquired property, or if such property be insufficient for her maintenance, then to maintenance out of the *paraveni* property:

12. (1) The *diga* marriage of a daughter after the death of her father shall not affect or deprive her of any share of his estate to which she shall have become entitled upon his death, provided that if within a period of one year after the date of such marriage the brothers and *binna*-married sisters of such daughter or any one or more of them, but if more than one then jointly and not severally, shall tender to her the fair market value of the immovable property constituting the aforesaid share or any part thereof, and shall call upon her to convey the same to him or her or them, such daughter shall so convey and shall be compellable by action so to do.

Daughter married in *diga* after father's death.

Provided that if the deceased intestate shall have left a child or descendant by a former marriage, the surviving spouse's life estate shall extend to only one-half of the acquired property;

Provided, further, that the surviving spouse shall out of her estate for life in the acquired property be bound to maintain the legitimate children of the deceased—

(2) In this section " marriage " means a marriage contracted after the commencement of this Ordinance.

- (i) if such children are minors and in need of maintenance ; and
- (ii) if the deceased left no *paraveni* property or if such *paraveni* property is insufficient for the maintenance of such children;

13. When a man shall die intestate after the commencement of this Ordinance leaving him surviving issue by two or more marriages, such issue and the descendants of any predeceased child or children shall inherit *inter se* in all respects as if there had been but one marriage and the estate of the deceased shall not descend *per stirpes* to the issue of each marriage according to the number of marriages.

Issue of two marriages: *per capita*.

Re-marriage of widow.

(b) if the surviving spouse shall contract a *diga* marriage, she shall cease to

Legitimate and illegitimate.

14. For the purposes of succession to the estate of any person who shall die intestate after the commencement of this Ordinance the term " legitimate " shall mean born of parents married according to la* and the term " illegitimate " shall mean born of parents not married according to law:

Provided that a legal marriage between any parties shall have the effect of rendering legitimate any children who may have been procreated between the same parties before the marriage, unless such children shall have been procreated in adultery.

Illegitimate children,

15. When a man shall die intestate after the commencement of this Ordinance leaving an illegitimate child or illegitimate children—

- (a) such child or children shall have no right of inheritance in respect of the *paraveni* property of the deceased ;
- (b) such child or children shall, subject to the interests of the surviving spouse, if any, be entitled to succeed to the acquired property of the deceased in the event of there being no legitimate child or the descendant of a legitimate child of the deceased;
- (c) any such child shall, subject to the interests of the surviving spouse, if any, be entitled to succeed to the acquired property of the deceased equally with a legitimate child or the legitimate children, as the case may be—
 - (i) if the deceased intestate had registered himself as the father of that child when registering the birth of that child; or
 - (ii) if the deceased intestate had in his lifetime been adjudged by any competent court to be the father of that child.

Succession to person dying intestate leaving no surviving spouse or descendant.

16. If a person shall die intestate after (he commencement of this Ordinance leaving him or her surviving parents, whether married in *binna* or in *diga*, or a parent, but no child or descendant of a child and no surviving spouse, then—

- (a) the parents in equal shares, or if one only be alive, then that one shall, if there be surviving any brother or sister of the deceased or the descendant of a brother or sister, be entitled to a life estate in the acquired property of the deceased. The right of a sole surviving parent shall arise and continue whether or not the other parent shall have died before the deceased intestate; Father and mother-
 - (b) on the death of the surviving parent. the acquired property shall, subject to the provisions of section 17, devolve upon the brother or sister or brothers and sisters, or the descendant or descendants of any deceased brother or sister by representation; Brothers and sisters-
 - (c) if there be no brother or sister or descendant of a deceased brother or sister, the parents in equal shares, or the surviving parent as the case may be, shall become entitled to the property; When no surviving brother or sister.
 - (d) the father, or if the father be dead the next heir or heirs on the father's side, shall inherit the paternal *paraveni*, and the mother, or if the mother be dead the next heir or heirs on the mother's side, shall inherit the maternal *paraveni*. The mother shall not inherit paternal *paraveni* unless there be surviving no heir on the father's side, and in like manner the father shall not inherit maternal *paraveni* unless there be surviving no heir on the mother's side, Paternal *paraveni* and maternal *paraveni*.
17. In the devolution of the estate of any person who shall die intestate after the commencement of this Ordinance, Brothers and sisters *inter se* always inherit as sons and daughters.
- (a) whenever the estate or any part thereof shall devolve upon heirs other than a child or the descendant of a child, and such heirs are in relation to one another brothers or sisters, or brothers and sisters, or the descendants of any deceased brother or sister, such heirs shall inherit *inter se* the like

shares and in like manner as they would have done had they been the children or descendants of the deceased intestate;

The half-blood per capita.

(b) whenever the estate or any share thereof shall devolve upon heirs who in relation to one another are of the half-blood, such heirs *inter se* shall inherit *per capita* and the estate shall not descend to them *per stirpes*.

Succession to woman married in *diga* or married in *binna* on mother's property.

18. (1) When a woman unmarried, or married in *diga*, or married in *binna* on her mother's property, shall die intestate after the commencement of this Ordinance leaving children or the descendants of a child or children, the estate of the deceased shall devolve in equal shares upon all such children, (the descendant or descendants of any deceased child being entitled to his or their parent's share by representation) whether male or female, legitimate or illegitimate, married or unmarried, and, if married, whether the marriage be in *binna* or in *diga*'.

Provided that if the deceased was married in *binna* as aforesaid, an illegitimate child or children shall not be entitled to succeed to the *paraveni* property of the deceased ;

Provided, further, that the descendant of a deceased child shall be entitled to that child's share by representation whether or not he or she has been kept apart from the deceased intestate.

Woman married in *binna* on father's property.

(2) When a woman married in *binna* on her father's property shall die intestate after the commencement of this Ordinance leaving children or the descendants of a child or children, such child or children, and his or their descendant by representation, shall be entitled to succeed *inter se* in like manner and to the like shares as they would have become entitled out of the estate of their father:

Provided that if the deceased was married in *binna* as aforesaid an illegitimate child or children shall not be entitled to succeed to the *paraveni* property of the deceased.

19. On the death intestate of a woman married in *diga*, leaving a surviving spouse but no child or descendant of a child, such surviving spouse shall not be entitled, and shall not be deemed to have been at any time entitled, to any part of the immovable property of the deceased other than the part consisting of the acquired property to which the deceased became entitled subsequent to and during the subsistence of such marriage in *diga*.

Rights of *diga* widower on death of spouse intestate and issueless.

V — INHERITANCE : MOVABLE PROPERTY

20. Heirlooms and live and dead stock appertaining to immovable property to which a person has become entitled as *paraveni* property as defined by section 10 shall, on his dying intestate after the commencement of this Ordinance, devolve in like manner as immovable property and the following provisions of this Ordinance shall not apply thereto.

Heirlooms and movables appertaining to *paraveni*.

21. When a man shall die intestate after the commencement of this Ordinance leaving a surviving spouse she shall be entitled to all wearing apparel, jewellery and ornaments used by her or provided for her use by her deceased husband.

The widow's paraphernalia.

22. When any person shall die intestate leaving a surviving spouse and a child or children, or the descendant of any deceased child entitled to represent his or her parent, the surviving spouse, whether the marriage was in *binna* or in *diga*, shall succeed in like manner and to a like share of all the movable property of the deceased whenever obtained, as if he or she had been a legitimate child of the deceased.

The widow or widower.

23. Subject to the aforesaid right of the surviving spouse, if any, the property of any person who shall die intestate after the commencement of this Ordinance shall devolve in equal shares upon all his or her surviving children (the descendant or descendants of any deceased child being entitled to his or her or their parent's share by representation) whether male or female, legitimate or illegitimate, married or unmarried, and, if married, whether the marriage be in *binna* or in *diga*:

All children inherit equally.

Provided that if the deceased was a male person an illegitimate child shall not succeed if there be surviving any legitimate child or the descendant of a legitimate child ;

assistance, support, or benefit, become entitled to succeed to any interest in the estate of such deceased intestate to which he would not have become entitled had such assistance, support or benefit not been rendered.

Provided further that the issue of a legitimate child *inter se* shall succeed in like manner.

26. Nothing in this Ordinance shall be deemed to affect or render invalid any existing judgment, decree, or order of a court of competent jurisdiction in respect of any property or the right, title or interest of any person in respect of property the subject-matter of the action in which such judgment, decree, or order was given, passed, or made. Saving existing judgements, decrees, or orders.

When there is no surviving descendant

24. When any person shall die intestate after the commencement of this Ordinance leaving no child or descendant of any deceased child, the surviving spouse, if any, shall succeed to all the movable property of the deceased.

VI — GENERAL

Assistance and support not to affect rights of succession

25. A person who has rendered assistance and support or any other benefit to a person who has subsequently died intestate, shall not by reason of such

27. The provisions of this Ordinance shall not have, and shall not be deemed or construed to have, any retrospective effect except in such cases where express provision is made to the contrary. Ordinance not to have retrospective effect unless expressly so provided.

**KADAWALAGEDARA PURANA
SIDDHASTHANA WARDHANA SOCIETY**

CHAPTER 426

**KADAWALAGEDARA PURANA
SIDDHASTHANA WARDHANA SOCIETY**

Act No. 25 of 1980. AN ACT TO INCORPORATE THE KADAWALAGEDARA PURANA SIDDHASTHANA WARDHANA SOCIETY.

[30th June. 1980.]

- Short title. **1.** This Act may be cited as the Kadawalagedara Purana Siddhasthana Wardhana Society (Incorporation) Act.
- Incorporation of the Kadawalagedara Purana Siddhasthana Wardhana Society. **2.** From and after the date of commencement of this Act, such and so many persons as are members of the Kadawalagedara Purana Siddhasthana Wardhana Society (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 " Kadawalagedara Purana Siddhasthana Wardhana Society ", 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.
- General objects of the Corporation. **3.** The general objects for which the Corporation is constituted are hereby declared to be—
- (a) to engage in meritorious activities by the promotion of good intention and to encourage the habit of acting collectively in such activities ;
 - (b) to develop and maintain the temple without causing damage to the historic value of the temple and its historical structures;
 - (c) to take steps to promote the dignity of the monks resident at such temple and to see to the security of the movable and immovable property belonging to such temple; and
 - (d) to take steps to create an environment conducive towards helping the people living in the adjoining temple lands, to lead a religious life.
- 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 any money with or without security, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation. General powers of the Corporation.
- 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 General Council consisting of such number of persons to be elected in accordance with the rules in force for the time being of the Corporation. General Council
- (2) The first General Council of the Corporation shall be the members of the General Council of the Association holding office on the date of the coming into operation of this Act.
- 6.** There shall be established a Board of Trustees, consisting of such number persons as set out in the rules in force for the time being of the Corporation, for the purpose of advising the Corporation on matters relating to planning and finance. Board of Trustees

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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, to make rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the General Council 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:

Provided, however, that such alteration, addition, amendment or cancellation shall have been previously approved by the General Council.

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

8. All debts and liabilities of the Association existing at the time of coming into operation of this Act, shall be paid by the Corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to the Association shall be paid to the Corporation for the purposes of this Act.

9. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the General Council, 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.

10. The Corporation shall, subject to the rules in force for the time being of the Corporation, be capable in law to acquire and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition or otherwise, and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules 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.

11. 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 sums determined by the General Council.

12. 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.

13. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 133

KANDYAN SUCCESSION

Ordinance
No. 23 of 1917.

AN ORDINANCE TO DECLARE THE LAW APPLICABLE TO THE ISSUE OF CERTAIN KANDYAN MARRIAGES.

[9th November, 1917.]

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

Issue of certain marriages declared subject to Kandyan law. **2.** The issue of the following marriages, that is to say :—

- (a) a marriage contracted between a man subject to the Kandyan law and domiciled in the Kandyan provinces and a woman not subject to the Kandyan law;
- (b) a marriage contracted in *binna* between a woman subject to the Kandyan law and domiciled in the Kandyan provinces and a man not subject to the Kandyan law,

shall be deemed to be and at all times to have been persons subject to the Kandyan law.

Saving as to property dealt with on the basis of the decision in *Mudiyanse v. Appuhamy* (16 M L. R. 117-120).

3. (1) Nothing in this Ordinance shall affect—

- (a) the mutual rights of the parties in the case of *Mudiyanse v. Appuhamy et al.* (D. C. Kegalla, 3,236), as declared by the decision of the Supreme Court in that case, or of persons claiming through the said parties respectively;
- (b) the mutual rights of the parties in any other suit in which the said decision has been followed, or of persons claiming through the said parties respectively;
- (c) any disposition of property, or any transaction or family arrangement dealing with property which shall have been duly effected according

to law between the date of the said decision and the date of the commencement of this Ordinance on the basis of the law as declared by the said decision;

- (d) any case in which the major heirs of any person who shall have died between the said dates in the administration or management of the rents, profits, produce, or income derivable from any property of the deceased in respect of which he shall have died intestate shall, with the concurrence of the curator (if any) who shall have been appointed in respect of the estate of any minor heir, have acted upon the law as declared by the said decision:

Provided that—

- (i) the fact that such property has been so dealt with has been declared by a memorandum in writing duly executed according to law within one year from the date of the commencement of this Ordinance by all the said major heirs (or, if any of the said heirs shall have meanwhile died, by their respective legal representatives), and by such curator, if any; or
- (ii) it shall have been declared by a competent court in an action instituted within one year from the date of the

commencement of this Ordinance that the major heirs of such deceased person and such curator, if any, in the administration or management of the rents, profits, produce, or income derivable from the said property, have in fact acted upon the basis of the law as declared by the said decision.

(2) The title to any property within paragraphs (c) and (d) of the last preceding subsection shall be governed by the law which would have been applied in accordance with the said decision if this Ordinance had not been passed:

Provided, however, that the devolution of the title of any such property by way of inheritance from the persons in whom it is treated as vested under this section shall be governed by the law as declared by this Ordinance.

Interpretation.

4. (1) For the purposes of this Ordinance—

"Kandyan provinces" means those districts of Ceylon which are Kandyan provinces within the meaning of the Kandyan Marriage Ordinance ;*

"marriage contracted in *binna*" includes any marriage contracted in such circumstances that if both parties were subject to the Kandyan law such marriage would be a marriage contracted in *binna*;

"domiciled" shall be interpreted in the same manner as it would be interpreted if the Kandyan provinces constituted a separate country.

(2) For the purpose of the Kandyan Marriage Ordinance,* the Kandyan Marriage and Divorce Act, and the Kandyan Marriages (Removal of Doubts) Ordinance,* the parties to the marriages referred to in section 2 of this Ordinance shall be deemed to be and at all times to have been persons lawfully entitled to contract marriages under the said first-mentioned Ordinance or Act.

* Repealed by Act No. 44 of 1952.

CHAPTER 497

KANDYAN SCHOLARSHIP FUND

Act No. 25 of 1971. AN ACT TO INCORPORATE THE BOARD OF TRUSTEES OF THE KANDYAN SCHOLARSHIP FUND, TO DECLARE THE PURPOSES TO WHICH THE MONEYS IN THAT FUND SHALL BE APPLIED AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[28th June, 1971.]

- Short title. **1.** This Act may be cited as the Kandyan Scholarship Fund (Board of Trustees) Act.
- Incorporation of the Board of Trustees of the Kandyan Scholarship Fund. **2.** From and after the passing of this Act, the members for the time being of the Board of Trustees of the Kandyan Scholarship Fund shall be a body corporate with perpetual succession and the name "The Board of Trustees of the Kandyan Scholarship Fund". The Corporation may sue and be sued by that name.
- Power of the Corporation to hold property. **3.** 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 and may, subject to such rules, be sold, mortgaged, leased, exchanged or otherwise disposed of.
- Constitution of the Board. **4.** (1) The first Board of Trustees of the Kandyan Scholarship Fund shall consist of—
 Mr. L. W. Madugalle, Permanent Secretary, Ministry of Sports and Parliamentary Affairs,
 Dr. L. W. Mediwake, Kundasale,
 Mr. P. W. Mediwake, Kundasale,
 Mr. U. B. Mediwake, Mercantile Bank, Kandy,
 Mr. A. M. K. Abeyakoon, Kundasale,
 Mr. J. L. P. Perera, Proctor S. C. & Notary Public, Kandy, and
 Mr. L. B. W. Pitawala, Madugoda.
- (2) Each member of the Board shall, unless he resigns earlier, be a member for life.
- (3) Any vacancy in the Board shall be filled by the co-option of a person by the remaining members of the Board at a special meeting summoned for the purpose.
- (4) The Chairman and the Secretary of the Board shall be elected annually by the Board and shall hold office for one year; they shall be eligible for re-election.
- (5) Meetings of the Board shall be summoned by the Secretary, who shall give at least three clear days' notice in writing to the members.
- (6) The quorum for a meeting of the Board shall be three.
- 5.** The Board may make rules regarding Rules. the meetings of the Board, the accounts of the Fund, the conditions of scholarships in addition to those mentioned herein, and all other matters for which rules may be considered necessary by the Board.
- 6.** The Fund shall consist of— The Fund.
 (a) a sum of twenty-five thousand rupees donated by Senator M. B. W. Mediwake for the purpose of investment;
 (b) the contributions received from the public and from institutions interested in furthering the objects of the Fund; and
 (c) the income derived from the investment of the sum of twenty-five thousand rupees referred to in paragraph (a) and from the other investments made by the Board.

Bankers.

7. The Bank of Ceylon, Kandy, or any other bank selected by the Board for any special reason shall be the bankers of the Fund.

of the commencement of this Act is within the limits of the Electoral District of Minipe.

Use of income.

8. The Board shall utilize the income from investments and contributions for the following purposes :—

(3) Only students who have passed the General Certificate of Education (Ordinary Level) Examination and are qualified for admission to the General Certificate of Education (Advanced Level) Science classes shall be eligible for scholarships. From among applicants so eligible the Board shall select for scholarships the best students after examination of their school records and the results of examinations. The decision so made shall be final.

- (a) to assist annually at least five students of science who are Kandyans, and who are selected, in accordance with the provisions of section 9, to continue their studies beyond the General Certificate of Education (Ordinary Level) Examination by granting each of them scholarships of the value of five hundred rupees for a year;

(4) The sum of five hundred rupees a year, referred to in section 8 shall be paid to each holder of a scholarship in three instalments, the first instalment shall be a sum of two hundred rupees and the other two instalments shall be one hundred and fifty rupees each. Each such instalment shall be paid at the commencement of each academic term.

- (b) to meet the expenses of the Fund.

Selection of scholarship holders.

9. (1) Of the students to whom scholarships are granted—

(5) No student may receive assistance from the Fund for a period exceeding two years.

- (a) one shall be a relation by blood of Senator M. B. W. Mediwake;
- (b) two students shall be from the area which at the time of commencement of this Act is within the Electoral District of Minipe;
- (c) one student shall be from the area which at the time of the commencement of this Act is within the Electoral District of Kundasale ; and
- (d) one student shall be from the area which at the time of the commencement of this Act is within the Electoral District of Teldeniya.

10. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by or from or under them.

Saving of the rights of the Republic and others.

(2) If at any time the income so warrants, the Board may increase the number of scholarships provided that the additional scholarships are granted to Kandyan students born in the area which at the time

11. In this Act unless the context otherwise requires—

interpretation.

" Board " means the Board of Trustees established and incorporated by this Act;

" Fund " means the Kandyan Scholarship Fund;

" member " means a member of the Board ;

" Kandyan " means a person subject to the Kandyan Law.

CHAPTER 403

KULIYAPITIYA YOUNG MEN'S BUDDHIST ASSOCIATION

Act AN ACT TO INCORPORATE THE KULIYAPITIYA YOUNG MEN'S BUDDHIST ASSOCIATION.
 No. 39 of 1980.

[9th October, 1980]

- Short title.** **1.** This Act may be cited as the Kuliya-pitiya Young Men's Buddhist Association (Incorporation) Act.
- Incorporation of the Kuliya-pitiya Young Men's Buddhist Association.** **2.** From and after the date of the commencement of this Act, the President, Vice-Presidents and members of the Committee of Management for the time being of the Kuliya-pitiya Young Men's Buddhist Association (hereinafter referred to as "the Association") and such and so many persons as now are members of the Association or shall hereafter be admitted members of the Corporation hereby constituted, shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession under the name and style of "The Kuliya-pitiya 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 to change and alter the same at its pleasure.
- General objects of the Corporation.** **3.** The General objects for which the Corporation is constituted are hereby declared to be—
- (a) the study, practice and propagation of Buddhism;
 - (b) the encouragement and promotion of unity, co-operation and brotherhood among Buddhists;
 - (c) promoting the physical, mental and social well-being of the members of the Association; and
 - (d) social service in general.
- 4.** The Corporation shall have the power to do, perform and execute all such acts, matters, and things whatsoever, as are necessary or desirable for the promotion or furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, to receive or collect grants and donations, to invest its funds, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation.
- 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 Committee of Management of the Corporation shall consist of the Office-bearers and the other members of the Committee of Management of the Association holding office on the date of commencement of this Act.
- 6.** (1) It shall be lawful for the Corporation, from time to time, at any general meeting of the members, and by a majority of votes, to make rules for the admission, withdrawal, or expulsion of members, for the conduct of the duties of the Committee of Management and of the various officers, agents and servants of the Corporation, for the procedure 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

General powers of the Corporation.

Committee of Management.

Rules of the Corporation.

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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 Act shall be deemed to be the rules of the Corporation made under this section.

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

Debts due by and payable to the Association.

7. All debts and liabilities of the Association existing at the time of the coming into operation of this Act 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 Act.

8. The Corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the Corporation for the purposes of this Act and subject to the rules for the time being of the said Corporation, with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

Corporation may hold property, movable and immovable.

9. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the President and either one of the Joint Secretaries or the Treasurer, who shall sign their names to the instrument in token of their presence and such signing shall be independent of the signing of any person as a witness.

Seal of the Corporation.

10. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 404

KELANI YOUNG MEN'S BUDDHIST ASSOCIATION

Act
No. 19 of 1966.

AN ACT TO INCORPORATE THE KELANI YOUNG MEN'S BUDDHIST ASSOCIATION.

[22nd June, 1966.]

Short title.

1. This Act may be cited as the Kelani Young Men's Buddhist Association Act.

Incorporation of the Kelani Young Men's Buddhist Association.

2. From and after the passing of this Act such and so many persons as now are members of the Kelani Young Men's Buddhist Association, or shall hereafter be admitted members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of "The Kelani 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.

Objects of the corporation.

3. The objects of the corporation shall be—

- (a) to provide facilities for, and to foster the study and the propagation of the Buddha Dhamma,
- (b) to encourage the practical observance of the Buddha Dhamma,
- (c) to promote unity and co-operation among Buddhists,
- (d) to advance the moral, cultural, physical and social welfare of Buddhists, and
- (e) to promote the interests of Buddhism.

Executive Committee.

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 the president, five vice-presidents, the honorary general secretary, the honorary assistant general secretary and

the honorary treasurer of the corporation and twenty-one other members to be elected in accordance with the rules in force for the time being of the corporation.

(2) The executive committee of the Kelani Young Men's Buddhist Association holding office on the date of commencement of this Act shall be the first executive committee of the corporation.

5. (1) It shall be lawful for the corporation from time to time at any general meeting of the members and with the consent of two-thirds of the members present and voting 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.

(2) Such rules may be altered, added to, amended or cancelled in like manner as a rule may be made under subsection (1).

(3) The rules of the said Kelani Young Men's Buddhist Association in force on the date of commencement of this Act shall be deemed to be 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.

6. All debts and liabilities of the said Kelani Young Men's Buddhist Association existing at the time of the coming into Debts due by and payable to the Association.

operation of this Act shall be paid by the corporation hereby constituted, and all debts due to and subscriptions and contributions payable to the said Kelani Young Men's Buddhist Association shall be paid to the corporation for the purposes of this Act.

(g) has been by any competent court found to have committed any offence involving moral turpitude.

(4) A member of the board of governors shall be deemed to vacate office if he—

(a) becomes subject to any of the disabilities enumerated in subsection 3 of this section, or

(b) is absent from three consecutive meetings of the board without the prior sanction of the board.

(5) A member of the board may resign office by letter addressed to the board.

(6) No decision of the board of governors shall be deemed invalid by reason of any vacancy in the board provided that such decision has been approved by not less than four members of the board at a meeting of the board.

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 executive committee, who shall sign their names to the instrument in token of their presence; and the signing of such members shall be independent of the signing of any person as a witness.

Corporation may acquire, hold and dispose of property and borrow money.

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 and may borrow money with or without security for the purposes of the corporation.

Board of governors.

9. (1) There shall be a board of governors consisting of seven persons.

(2) The board of governors of the said Kelani Young Men's Buddhist Association in office on the date of commencement of this Act shall be the first board of governors of the corporation and where a vacancy occurs among the members of the board hereafter the remaining members of the board shall fill such vacancy by electing a fit and proper person as member of the board.

(3) No person shall be elected a member of the board of governors if he—

(a) is not a member of the corporation,

(b) is not a Buddhist,

(c) is less than thirty-five years of age,

(d) is a person who, having been declared a bankrupt or insolvent by a court, is an undischarged bankrupt or insolvent,

(e) is married to a non-Buddhist,

(f) is of unsound mind, or

10. The power conferred on the corporation by section 8 of this Act to sell, mortgage, lease, exchange or otherwise dispose of immovable property shall, except the power to grant a lease for a period not exceeding one year, be exercised by the board of governors subject to the rules in force for the time being of the corporation. The board shall, however, obtain the prior sanction of a general meeting for every such transaction.

Power of board of governors to deal with immovable property.

11. No act of the executive committee of the corporation shall be valid or effective for the purpose of transferring any rights in the property or funds of the corporation or for creating any liability or claim against the corporation unless such act has been previously authorized by a general meeting of the corporation and by a majority of the board of trustees present at a meeting of the board:

Power of executive committee to deal with property to be subject to control of general meeting and of board of governors.

Provided that no such authorization shall be necessary in the case of any of the following:—

(a) lease of any immovable property for a period not exceeding one year;

(b) disposal of any movable property of a value not exceeding one thousand rupees;

(c) any extraordinary expenditure not exceeding one thousand rupees in any financial year in addition to the ordinary expenses of the corporation.

Liability of members of the corporation.

12. 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.

13. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from or under them.

Saving of the rights of the Republic and others.

14. The Order incorporating the trustees of the Kelani Young Men's Buddhist Association, made under section 114 of the Trusts Ordinance shall cease to have effect on the date of the coming into operation of this Act.

Order incorporating the trustees of the Kelani Young Men's Buddhist Association to cease to have effect on date of operation of this Act.

CHAPTER 448

KANDY YOUNG WOMEN'S CHRISTIAN ASSOCIATION

Ordinance AN ORDINANCE TO INCORPORATE THE KANDY YOUNG WOMEN'S CHRISTIAN ASSOCIATION.
 No. 17 of 1924.

[8th August, 1924.]

Short title. **1.** This Ordinance may be cited as the Kandy Young Women's Christian Association Ordinance.

Incorporation of Kandy Young Women's Christian Association. **2.** From and after the passing of this Ordinance, the president, vice-president, and members of the board of management for the time being of the Kandy Young Women's Christian Association, and such and so many persons as are now members of the said Kandy Young Women's Christian Association or shall hereafter be admitted as members of the corporation hereby constituted, shall be and become a corporation with continuance for ever under the style and name of "The Kandy Young Women's Christian Association", and by that name shall and may sue and be sued in all courts, with full power and authority to have and use a common seal and to change and alter the same at their pleasure.

General objects of the corporation. **3.** The general objects for which the corporation is constituted are hereby declared to be to promote the spiritual, intellectual, social, and physical welfare of the young women of Kandy, including the promotion amongst them of science and literature, their instruction, the diffusion amongst them of useful knowledge and maintenance of libraries, reading rooms, rest rooms, and other features for general use among the members, and travellers' aid work for any young women passing through Kandy.

Board of management. **4.** (1) The affairs of the corporation all, subject to the rules for the time being of the corporation as hereinafter provided, be administered by a board of management

consisting of the president and the vice-president respectively of the corporation and not less than eight other members, to be elected respectively in accordance with the rules in force for the time being of the corporation.

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

(3) The first board of management shall consist of—

1. Mrs. M. Martin Smith.
2. Mrs. W. L. Kindersley.
3. Mrs. J. Oorloff.
4. Mrs. A. M. Walmsley.
5. Miss Queenie Bartholomeusz,
6. Mrs. L. J. Gaster.
7. Mrs. C. L. Bartholomeusz.
8. Mrs. L. Atwell.
9. Mrs. A. Pate.
10. Mrs. G. W. Pereira.
11. Mrs. J. Piachaud.
- 12- Mrs. L. H. S. Pieris.
13. Mrs. S. S. Sathianathan.
14. Mrs. C, Sproule
15. Mrs. E. F. Dias Abeyesinghe.

5. It shall be lawful for the corporation Power to make from time to time at any general meeting of the members, and by a majority of votes, to make rules for the admission or withdrawal of members ; for the conduct of the duties of the board of management, and of the various officers, agents, and servants of the corporation; for the procedure in the transaction of business; and otherwise generally for the management of the affairs of the corporation and the accomplishment of its objects. Such rules when made may, at a like meeting, be altered, added to, amended, or cancelled, subject, however, to the requirements of section 7.

The rules in Schedule* to be the rules of the corporation.

6. Subject to the provisions in section 5 contained, the rules set forth in the Schedule* shall for all purposes be the rules of the corporation:

Provided, however, that nothing in this section contained shall be held or construed to prevent the corporation at all times hereafter from making fresh rules, or from altering, amending, adding to, or cancelling any of the rules in the Schedule* or to be hereafter made by the corporation.

Amendment of rules.

7. No rule in the Schedule*, nor any rule hereafter passed at a general meeting, and no decision come to by the corporation in general meeting, shall be altered, added to, amended, or cancelled, except by a majority of the members present and voting at any subsequent general meeting.

Property vested in corporation.

8. On the coming into operation of this Ordinance all and every the property belonging to the said Kandy Young Women's Christian Association, whether held in the name of the said Kandy Young Women's Christian Association, or in the name or names of any person or persons in trust for the said Kandy Young Women's Christian Association, shall be and the same are hereby vested in the corporation hereby constituted, and the same, together with all after-acquired property, both movable and immovable, and all subscriptions, contributions, donations, fines, amounts of loan, and advance received or to be received, shall be held by the said corporation for the purposes of this Ordinance, and subject to the rules for the time being in force of the said corporation.

9. All debts and liabilities of the said Kandy Young Women's Christian Association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to, and subscriptions and contributions payable to, the said Kandy Young Women's Christian Association shall be paid to the said corporation for the purposes of this Ordinance.

Debts due by and payable to the association.

10. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two of the members of the board of management, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How the seal of the corporation is to be affixed.

11. The corporation shall be able and capable in law to take and hold any property, movable or immovable, which may become vested in it by virtue of any purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance, and subject to the rules for the time being of the said corporation, with full power to sell, mortgage, lease, exchange, or otherwise dispose of the same.

Corporation may hold property, movable and immovable-

12. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Ordinance, and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

• Schedule omitted.—Private enactment.

CHAPTER 57

LOTTERIES

Ordinances Nos. 8 of 1844,
3 of 1883,
6 of 1944.

Acts Nos. 2 of 1954
27 of 1958.

AN ORDINANCE FOR THE SUPPRESSION OF LOTTERIES.

[10th July, 1844.]

- 1.** This Ordinance may be cited as the Lotteries Ordinance.
- 2.** All unlicensed lotteries, under whatsoever denomination or pretence they shall be set up, carried on, or kept, shall be deemed and are hereby declared to be common nuisances and against law.
- 3.** Every person who promotes or conducts any unlicensed lottery shall be guilty of an offence.
- 4.** If any person shall draw, or cause to be drawn, any ticket or chance in any unlicensed lottery or shall by playing, throwing, or in any other way whatsoever, endeavour to win or obtain any prize in, or to derive any benefit for himself or for any other person from any unlicensed lottery, every such person shall be guilty of an offence.
- 5.** If any person shall, within Sri Lanka, sell, deliver, or dispose of, purchase, or wilfully receive any ticket or chance in any unlicensed lottery promoted or conducted in Sri Lanka or in any lottery promoted or conducted outside Sri Lanka, every such person shall be guilty of an offence.
- 6.** If any person shall under any pretence, device, or description whatsoever, agree to pay any sum, or deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing, winning, or obtaining of any ticket or chance in any unlicensed lottery, or shall make, print, or publish any proposal, under any denomination, name, or title whatever, for "any of the purposes aforesaid, every such person shall be guilty of an offence.
- 7.** If any person shall keep or use any premises or place or knowingly permit any premises or place to be kept or used, for any purpose connected with any unlicensed lottery promoted or conducted in Sri Lanka or any lottery promoted or conducted outside Sri Lanka, every such person shall be guilty of an offence.
- 8.** (1) Licences to promote or conduct lotteries may, in accordance with the provisions of this Ordinance, be issued by the Minister in his discretion after consultation with the Inspector-General of Police.
- (2) A licence to promote or conduct any lottery is hereinafter referred to as a "lottery licence", and a lottery licence to promote or conduct any lottery or lotteries in connection with any horse-race or horse-races is hereinafter referred to as a "horse-race lottery licence".
- (3) A horse-race lottery licence may authorize the licensee to promote or conduct a lottery in connexion with—
- (a), a specified horse-race in any specified year or in every year, or
 - (b) each of a specified number of any horse-races in any specified year or in every year, or
 - (c) any horse-race at a specified race-meeting in any specified year or in every year, or
 - (d) any horse-race at every race-meeting held by a specified racing club in any specified year or in every year.

Lottery licences may be issued to societies.

9. (1) A licence to promote or conduct any kind of lottery may be issued to a society upon application duly made in that behalf and upon payment of the prescribed fee.

(2) No lottery licence issued to a society shall authorize the promotion or conduct of more than one lottery.

Only horse-race lottery licences may be issued to racing clubs.

10. (1) A horse-race lottery licence may be issued to a racing club upon application duly made in that behalf and upon payment of the prescribed fee.

(2) No lottery licence other than a horse-race lottery licence shall be issued to a racing club.

Applications for lottery licences.

11. Every application by a society or racing club for a lottery licence—

(1) shall be made in writing to the Minister through the Secretary;

(2) shall state the name and address of the society or club, the governing body thereof, and the name and address of each member of such body;

(3) shall, if the application is for a horse-race lottery licence—

(a) specify the number of lotteries proposed to be promoted or conducted, and

(b) state—

(i) where the number of lotteries is one, whether the lottery is to be promoted or conducted in any specified year or in every year and the horse-race in connection with which the lottery is to be so promoted or conducted and the country in which that race will be run;

(ii) where the number of lotteries is more than one, whether the lotteries are to be promoted or conducted in any specified year or in every year and the number of horse-races in connection with each of which

a lottery is to be so promoted or conducted and the country in which each such race will be run and, if any such race is to be run in Sri Lanka, the racing club holding the race-meeting at which that race will be run;

(4) shall give full particulars relating to the lottery or each lottery to be promoted or conducted, and in particular—

(a) shall state the price at which every ticket or chance is to be sold;

(b) shall, if the applicant is a society, state whether tickets or chances are to be sold only to members of the society or are to be sold to the public;

(c) shall state the number of prizes which are to be offered in the lottery or in each lottery, and as respects each such prize—

(i) shall state whether the prize will be donated by any person for the purposes of the lottery in which the prize is to be offered, and, if the prize will not be so donated, whether or not the cost of providing or purchasing the prize is to be a charge on the proceeds of the lottery; and

(ii) shall, if the prize is a money prize, state its value by reference either to a specified sum or to a specified proportion of the proceeds of the lottery; or

(iii) shall, if the prize is not a money prize, state the nature and value of the prize;

(d) shall state whether or not the expenses (other than the costs of providing or purchasing prizes) incurred in the promotion or conduct of the lottery are to be a charge on the proceeds thereof;

- (e) shall state the purpose or purposes to which the proceeds of the lottery or of each lottery are to be applied after deducting such costs and expenses as are stated in the application to be a charge on those proceeds; and
- (f) shall state the date on which the lottery or each lottery is to be drawn.

- (7) a notice stating the number of each winning ticket or chance in every such lottery and, if known, the name and address of the winner thereof shall, forthwith after the result of the lottery is known, be published by the licensee in a Sinhala daily newspaper, a Tamil daily newspaper and an English daily newspaper circulating in Sri Lanka, and copies of such notice shall be sent by the licensee to the Secretary and to the Inspector-General of Police:

Secretary may require applicants for lottery licences to furnish information and documents.

12. The Secretary, may direct the applicant for any lottery licence to furnish all such information and documents as the Secretary may deem necessary - for the purpose of enabling the Minister to dispose of the application, and it shall be the duty of the applicant to comply with that direction.

Provided, however, that where the licensee is a society and the sale of tickets or chances in the lottery is restricted by the lottery licence to members of that society, the notice aforesaid shall, instead of being published as provided by the preceding provisions of this paragraph, be exhibited by the licensee on the premises of the society and copies of such notice shall be sent by the licensee to the Secretary and to the Inspector-General of Police;

General conditions applicable to lottery licences.

13. Every lottery licence shall be subject to the following conditions;—

- (1) no written notice or advertisement of a lottery promoted or conducted under the authority of such licence shall in any material particular be inconsistent with or repugnant to any provision of such licence or any statement in the tickets issued in respect of such lottery;
- (2) no ticket or chance in any such lottery shall be sold or offered for sale at a price exceeding such price as may be specified in such licence;
- (3) the price of every ticket or chance in any such lottery shall be the same, and the price of every such ticket shall be stated on the ticket;
- (4) every ticket in any such lottery shall bear on the face of it the name of the licensee;
- (5) no ticket or chance in any such lottery shall be sold or offered for sale outside Sri Lanka ;
- (6) every such lottery shall be drawn on such date as may be specified in such licence or on any other date to which it may be postponed by the Secretary for good reasons upon application made in that behalf by the licensee;

- (8) the proceeds of every such lottery, less the deductions permitted by paragraph (9), shall be applied by the licensee to such purpose or purposes as may be specified in such licence, and proof that such proceeds have been so applied shall be furnished by the licensee to the satisfaction of the Secretary within such period after the draw of the lottery as may be so specified ;
- (9) the following amounts may be deducted from the proceeds of every such lottery:—
 - (a) as expenses of the lottery an amount not exceeding such sum or such proportion of the proceeds of the lottery as may be specified in such licence;
 - (b) an amount equal to the total value of such money prizes in the lottery as are provided out of the proceeds of the lottery;

- (c) an amount equal to the total actual cost or value of such other prizes in the lottery as have not been donated by any person for the purposes of the lottery; and
 - (d) any lottery tax payable under this Ordinance;
- (10) proper books of account relating to every such lottery shall be kept by the licensee and such books and all other documents relating to the lottery shall be made available by the licensee at all reasonable times for the inspection of any officer authorized in that behalf by the Secretary or the Inspector-General of Police throughout the period of the promotion or conduct of the lottery and for a further period of twelve calendar months reckoned from the date of the draw of the lottery;
- (11) a statement of accounts relating to every such lottery duly audited and certified by an accountant shall, within such period reckoned from the date of the draw of the lottery as may be specified in such licence, be furnished by the licensee to the Secretary and to the Inspector-General of Police; and
- (12) such other conditions as the Minister may deem fit to insert in such licence, including, in any case where the licensee is a society, a condition restricting the sale of tickets or chances to members of that society.
- 14.** A horse-race lottery licence shall, in addition to the conditions specified in section 13 or imposed thereunder, be subject to the following further conditions:—
- (a) every prize in any lottery promoted or conducted under the authority of such licence shall be a money prize;
 - (b) where any such lottery is in connection with a horse-race to be run outside Sri Lanka or in connexion with a horse-race at a race-meeting in Sri Lanka which is not held by the society or racing club to which such licence has been issued, no ticket or chance in the lottery shall be issued, distributed, sold or offered for sale, by any person who is not a member of, or is not authorized in writing in that behalf by, such society or racing club; and
 - (c) where any such lottery is in connection with a horse-race at a race-meeting in Sri Lanka which is held by such society or racing club, no ticket or chance in the lottery shall be issued, distributed, sold or offered for sale—
 - (i) by any person other than an employee of such society or racing club who is authorized in writing in that behalf by such society or racing club, or
 - (ii) except during the period of forty- [§2,27 of eight hours immediately 1958] preceding the time fixed by such society or racing club for the start of such horse-race.
- 15.** (1) After the expiration of a period of six calendar months reckoned from the date of the draw of any lottery promoted or conducted under the authority of any lottery licence, any money prize or any other prize in such lottery which has not been paid or delivered to the person entitled thereto by reason of the fact that such person is not known shall be disposed of in the following manner:—
- (a) if the prize is a money prize, the amount of the prize shall be forthwith paid by the licensee to the Deputy Secretary to the Treasury to be credited to the Consolidated Fund;
 - (b) if the prize is not a money prize, it shall be forthwith sold by public auction by the licensee and the proceeds thereof shall be paid by the licensee to the Deputy Secretary to the Treasury to be credited as aforesaid:

Special conditions applicable to horse-race lottery licences.

Disposal of unclaimed prizes in licensed lotteries.

Provided, however, that where the licensee is a society and the sale of tickets or chances in the lottery is restricted by the lottery licence to members of that society, the amount referred to in paragraph (a) of this subsection or the proceeds referred to in paragraph (b) of this subsection shall be paid into the funds of that society;

And provided, further, that nothing in the preceding provisions of this subsection shall apply in any case where any action or proceeding arising out of any claim made in respect of the prize is pending before any court at the expiration of the period aforesaid until such time as that action or proceeding is finally determined and unless the effect of that determination is that the claimant is not entitled to the prize.

(2) No act done in compliance with the provisions of subsection (1) in relation to any prize in any lottery shall subject any promoter or conductor of the lottery, or the Deputy Secretary to the Treasury, to any action, claim, demand or liability whatsoever.

16. The head, secretary, and every member of the governing body, of a society or racing club to which a lottery licence is issued shall each be deemed for the purposes of this Ordinance to promote or conduct every lottery under that licence, and the provisions of this Ordinance shall be construed accordingly.

17. Fees required by this Ordinance to be prescribed for lottery licences shall be prescribed by the Minister by notification published in the Gazette.

18. Any act which is authorized or required to be done by or under this Ordinance by any society or racing club, in its capacity as an applicant for a lottery licence or as a licensee, may be done on behalf of that society or club by the head or secretary thereof, or by any other member or officer of that society or club authorized in writing in that behalf by such head or secretary.

19. Parliament may by resolution impose a tax (in this Ordinance referred to as a " lottery tax ") on the gross proceeds of

every lottery. Such tax shall be payable by the promoter or promoters of the lottery and shall be credited to the Consolidated Fund. If such tax is not paid it may be recovered from the promoter or promoters of the lottery as a debt due to the State.

20. Where—

- (a) any provision of this Ordinance relating to any lottery promoted or conducted under the authority of a lottery licence is contravened, or
- (b) any condition of a lottery licence is not complied with,

every person who is deemed for the purposes of this Ordinance to have promoted or conducted the lottery and, where the person by whom the provision is contravened or the condition is not complied with is not a person who is so deemed to have promoted or conducted the lottery, that person also, shall be guilty of an offence:

Provided, however, that it shall be a defence for a person charged only by reason of his having promoted or conducted the lottery to prove that the offence was committed without his knowledge.

21. (1) Where a Magistrate is satisfied Search by information on oath that there is reason warrants to suspect that any offence under this Ordinance is being or has been committed in any place or premises, or that there is any document or thing directly or indirectly connected with any such offence in any place or premises, he may issue a search warrant authorizing any person named therein to enter and search such place or premises at any time, with such assistance and using such force as may be necessary, and to search any person found in such place or premises and to seize and detain any document, money, instrument or thing found therein which he has reasonable ground to suppose is directly or indirectly connected with the commission of any offence under this Ordinance and, if he thinks fit, to arrest any person found in such premises or place, who he has reason to suspect is guilty of any such offence.

Offences in respect of licensed lotteries.

Persons who are deemed to promote or conduct licensed lotteries.

Lottery licence fees.

Authorized representatives may act on behalf of societies or racing clubs.

Lottery tax.

(2) Where any police officer has reason to suspect that any offence under this Ordinance is being or has been committed in any place or premises, or that there is any document or thing directly or indirectly connected with any such offence in any place or premises, and that a search warrant cannot be obtained under subsection (1) without giving the offender an opportunity of escaping or of concealing evidence of the offence, he may, after recording the grounds of his suspicion, exercise all or any of the powers which could have been conferred upon him by a search warrant issued under subsection (1).

informers; and if any person upon whom any fine shall be imposed under the provisions of this Ordinance shall fail to pay the same, the informer shall be entitled to receive from the Government Agent the amount of the share of such fine to which he would have been entitled if the same had been paid :

Provided that the said Government Agent shall not be bound to pay in respect of any one such share any sum exceeding the sum of seventy-five rupees.

No prosecution but by authority of Attorney-General.

22. It shall not be competent for any court within Sri Lanka to try any person for any offence or alleged offence against this Ordinance, unless the prosecution of such person for such offence shall have been expressly authorized by the Attorney-General.

27. No person shall be deemed incompetent to give evidence at the trial of any party for any offence created by this Ordinance by reason of any reward or share to which he would be entitled under the provisions of the preceding section upon the conviction of such party. informer competent witness

Penalty for offences under Ordinance.

23. Every person who commits an offence under this Ordinance shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

r 28. In this Ordinance— Interpretation,

" governing body "—

- (a) in relation to any racing club, means the stewards, for the time being, of that club, and
- (b) in relation to any society, means the person or body of persons for the time being charged with the management or administration of the affairs of that society;

Forfeiture of money and disposal of productions before court.

24. The court before which a person is convicted of any offence under this Ordinance in relation to any lottery shall order to be forfeited to the State any money produced before the court which is shown to the satisfaction of the court to represent the price of tickets or prize money or prizes in such lottery and shall order to be destroyed all documents (other than currency notes) produced before the court which are shown to the satisfaction of the court to relate to the promotion or conduct of such lottery.

" head", in relation to any society or racing club, means the president for the time being of that society or club or, in the absence of a president, the person who for the time being occupies the position of head, by whatever name called, of the management or administration of the affairs of that society or club;

Proof of lottery licences by production of certified copies.

25. A copy of a lottery licence purporting to be certified to be a true copy by the Secretary or by any officer on behalf of the Secretary may be produced in proof of the contents of that licence in any proceedings under this Ordinance.

" licensee ", in relation to a lottery licence, means the society or racing club to whom such licence has been issued ;

" lottery " includes any undertaking in the nature of a lottery;

Informer's share of fine.

26. One-half of all fines recovered under the provisions of this Ordinance shall go to the State, and the other half to the

"money" includes a currency note, cheque, postal order or money order and any security for money;

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- " race-course " and " race-meeting " have the same meaning as in the Betting on Horse-racing Ordinance;
- " racing club " has the same meaning as in the Betting on Horse-racing Ordinance;
- " Secretary " means the Secretary to the Ministry in charge of the Minister;
- " secretary ", in relation to any society or racing club, includes any person who for the time being occupies the position of secretary, by whatever name called;
- *" society " means any society, association, or body of persons, corporate or unincorporate, other than a racing club, established or maintained—
- (a) for the promotion or encouragement of any public, religious, philanthropic, educational or charitable purpose ; or
- (b) for the promotion or encouragement of any game or any sporting or athletic activity ;
- " ticket", in relation to a lottery, includes any lot, share, figure, number or other document, evidencing the claim of a person to participate in the chances of the lottery;
- "unlicensed lottery" means any lottery other than a lottery promoted or conducted under the authority of a lottery licence.

LEGITIMACY [Cap.77]

CHAPTER 77

LEGITIMACY

Act
No. 3 of 1970.

AN ACT TO CHANGE THE LAW RELATING TO THE LEGITIMIZATION OF CERTAIN
ILLEGITIMATE CHILDREN.

[21st January, 1970.]

Short title.

1. This Act may be cited as the
Legitimacy Act.

Provided, however, that where at any
time before the date of the commencement
of this Act any rights of any description
whatsoever did not vest in the child of any
marriage, but did in fact vest in any other
person, by reason only of the fact that such
child, having been procreated in adultery,
was the illegitimate child of the parties, the
subsequent legitimization of such child, by
virtue of the operation of the preceding
provisions of this section, shall not be
deemed or construed—

This Act
not to apply
to certain
marriages.

2. (1) This Act shall not apply to—

(a) a marriage between persons
professing Islam; or

(b) a marriage, under the Kandyan
Marriage and Divorce Act, between
persons subject to Kandyan law.

(2) For the purposes of this Act, the
expression " a valid marriage to which this
Act applies " does not include a marriage
referred to in subsection (1).

(a) to have prejudiced or affected, or to
prejudice or affect, in any manner,
or to any extent, whatsoever the
rights so vested, or such other
person's claim or title to such
rights; and

Legitimization
of illegitimate
children.

3. A valid marriage to which this Act
applies shall be deemed at all times, whether
before or on or after the date of the
commencement of this Act, to have
rendered, and to render, legitimate any child
procreated by the parties prior to such
marriage, whether or not such child was so
procreated in adultery:

(b) to have conferred, or to confer, on
such child any claim or title to such
rights.

CHAPTER 536

LAUNCHES

Ordinance
No. 11 of 1907.

AN ORDINANCE TO PROVIDE FOR THE EMPLOYMENT OF DULY QUALIFIED TINDALS
AND ENGINEERS ON LAUNCHES.

[1st January. 1908.]

- Short title.** **1.** This Ordinance may be cited as the Launches Ordinance.
- Appointment of examiners.** **2.** The Minister may from time to time appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as tindals or as engineers of launches.
- Grant of certificate of competency to act as tindal or as engineer.** **3.** (1) The Master Attendant shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as tindal or as engineer, as the case may be, of a launch.
- (2) Every such certificate shall be in the prescribed form.
- Power of Minister to require re-examination or further inquiry.** **4.** Before granting a certificate under section 3 the Master Attendant may, if he has reason to believe that the report of the examiners regarding any applicant has been improperly made, report the circumstances of the case to the Minister, who may require a re-examination of the applicant or a further inquiry into his testimonials and character.
- Certificate to be made in duplicate.** **5.** Every certificate of competency granted under this Ordinance shall be made in duplicate, and one copy shall be delivered to the person entitled to a certificate and the other shall be kept and recorded in the prescribed form.
- Grant of copy of certificate in certain cases.** **6.** Whenever a tindal or engineer proves to the satisfaction of the Master Attendant that he has without fault on his part lost or been deprived of his original certificate, he shall be entitled, on payment of a fee of two rupees and fifty cents, to a copy of such certificate in lieu of such original.
- 7.** (1) A launch shall not proceed on any voyage unless she has-
- (a) as her tindal, a person possessing a tindal's certificate granted under this Ordinance, or a master's certificate of competency granted under the Merchant Shipping Act, or recognized by regulations made thereunder;
- (b) as her engineer, a person possessing an engineer's certificate granted under this Ordinance or an engineer's certificate of competency granted under the Merchant Shipping Act, or recognized by regulations made thereunder;
- Provided that an undecked launch shall be deemed to have complied with this section if she has as her tindal and engineer a person possessing both a tindal's certificate and an engineer's certificate in accordance with this Ordinance.
- (2) If any launch proceeds on a voyage in contravention of this section, the owner and the tindal of the launch shall each be guilty of an offence, and be liable on conviction thereof to a fine, which may extend to one thousand rupees.
- 8.** The Master Attendant may cancel or suspend the certificate of any tindal or engineer who is convicted of any offence under the Masters Attendant Ordinance, or under any regulations made thereunder.
- Any tindal or engineer aggrieved by the cancellation or suspension of his certificate may appeal therefrom to the Minister, who may make such order as the justice of the case may require.

Nature of certificates necessary for tindals and engineers of launches.

Cancellation and suspension of certificates.

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Rules.

9. The Minister may make rules to regulate the granting of certificates of competency under this Ordinance, and may by such rules—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as tindals or as engineers under this Ordinance;
- (b) prescribe the qualification to be respectively required of persons desirous of obtaining such certificates;
- (c) fix the fees to be paid by applicants for examination;
- (d) prescribe the form in which certificates shall be given.

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

Interpretation.

"launch" includes any boat of less than fifty tons burden propelled by steam, electric, or other motive power, which ordinarily plies in any port of Sri Lanka, or in any canal, river, lake, or other inland water in Sri Lanka;

"Master Attendant" means the Master Attendant of the port of Colombo ;

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

"tindal" means any person (except a pilot or harbour master) having for the time being charge or control of a launch;

"voyage" includes also the plying of a launch at or about any port or place.

CHAPTER 560

LEPERS

Ordinances AN ORDINANCE TO PROVIDE FOR THE SEGREGATION AND TREATMENT OF LEPERS
Nos. 4 of 1901,
17 of 1902,
15 of 1912,
35 of 1939.
9 of 1941.

Act
No. 12 of 1952.

[1st January, 1902.]

Short title. 1. This Ordinance may be cited as the Lepers Ordinance.

Minister may appoint leprosy hospitals. 2. It shall be lawful for the Minister, from time to time, to appoint any such place as he shall think fit to be a leprosy hospital for the segregation and treatment of lepers; and every such leprosy hospital shall comprise such area as the Minister shall, from time to time, define by Order published in the Gazette.

Provision as to existing leper hospital or asylum at Hendala. 3. The place now and heretofore known as the leper hospital or asylum, situate at Hendala, shall be deemed to be a leprosy hospital established under the provisions of this Ordinance, and all acts heretofore done and suffered with regard to lepers and the segregation, support, and treatment of lepers in the said hospital or asylum shall be deemed to have been done and suffered in accordance with law.

Lepers may build separate dwellings for their own use within the limits of the leprosy hospital. 4. Any person detained as a leper in a leprosy hospital may by the special permission of the Minister erect or cause to be erected for himself a dwelling house at his own proper expense within the limits of the leprosy hospital in which he is detained subject to such conditions as to plan, site, drainage, and otherwise as to the Minister shall seem fit.

Duty of persons to give information of existence of lepers. 5. It shall be the duty of every person having knowledge of the existence of a leper or a person reasonably suspected of being a leper in any place outside the limits of any leprosy hospital to give information thereof to the Government medical officer residing nearest to the village or place in which such

leper or suspected leper resides or is found, and such medical officer shall forthwith report the same to the Director of Health Services.

6. Every person wilfully neglecting to give such information as aforesaid, and every medical officer wilfully neglecting to report the same as aforesaid, shall be guilty of an offence, and shall be liable on conviction for each such offence to a fine not exceeding fifty rupees. Penalty.

7. On the receipt of such report as aforesaid the Director of Health Services shall forthwith forward such report to the Minister, and such inspection and examination of the alleged leper shall be held and such report made thereon as the Minister shall order, or as shall be, from time to time, prescribed by such general regulations in that behalf as shall, from time to time, be made under section 13 of this Ordinance. Inquiry into cases of leprosy.

8. After such inspection, examination, and report as aforesaid, it shall be lawful for the Minister, if he shall think fit, to order the leper or alleged leper to be removed to and detained in a leprosy hospital: Power to order lepers to be removed to and detained in hospital.

Provided always that no person shall be removed to or detained in a leprosy hospital unless he has first been certified to be suffering from the disease of leprosy by two qualified medical practitioners, one of whom shall be either the Director of Health Services or a medical practitioner appointed by the Minister, to inquire into cases of suspected leprosy for the purposes of this Ordinance.

Lepers able to provide effective isolation and medical treatment not removable to hospital. Minister may prescribe rules for observance by them.

9. (1) No such order for removal or detention as in section 8 mentioned shall be made if the leper or alleged leper shall in the opinion of the Minister be able to provide for himself at his own place of abode effective isolation and medical treatment, and shall within the time prescribed by the Minister carry out such directions as the Minister may give for securing such isolation, but in every such case it shall be lawful for the Minister, from time to time, to prescribe rules for observance by such leper or alleged leper in order to secure such isolation.

Minister may order removal on breach of rules.

(2) In the event of the disregard or breach of any such rules the Minister may under section 8 order such leper or alleged leper to be removed to and detained in a leprosy hospital.

Lepers not to leave hospital without permission.

10. No person detained as a leper in a leprosy hospital shall leave the hospital without the permission in writing of the Director of Health Services, or in his absence an officer of the Department of Health authorized in that behalf by the Director, and every person acting in contravention of this section shall be guilty of an offence, and shall be liable on conviction for each such offence to simple imprisonment for a term which may extend to three months.

Penalty.

No person to enter leprosy hospital without permission, Penalty.

11. Every person found within the limits of a leprosy hospital without the written permission of the Director of Health Services or without lawful authority shall be guilty of an offence, and shall be liable on conviction for each such offence to a fine not exceeding fifty rupees.

Director of Health Services and medical officer in charge of any leprosy hospital to exercise powers of Magistrate in hospital.

12. The Director of Health Services shall have and exercise all the powers of a Magistrate with respect to all offences committed by persons detained as lepers in a leprosy hospital, and shall also have power to hear and determine all complaints of offences punishable under section 10 of this Ordinance. And it shall be lawful for the Minister, from time to time, to appoint any medical officer having charge of any leprosy hospital to have and exercise all the powers of a Magistrate* therein. Every

decision given under the provisions of this section shall be subject to the same rights of appeal as the decisions of a Magistrate.

13. (1) It shall be lawful for the Minister, from time to time, to make such regulations as he may deem necessary—

Regulations to be made by Minister.

- (a) for inspection, examination, and removal of lepers to a leprosy hospital;
- (b) for the proper management and sanitation of the leprosy hospital or hospitals;
- (c) for the discipline and good order of the inmates of such hospital or hospitals;
- (d) for the custody and imprisonment within such hospital or hospitals of lepers accused of and found guilty of offences ;
- *(e) for regulating the sittings and procedure of courts to be held under the provisions of this Ordinance;
- (f) generally for the better carrying out of the provisions of this Ordinance and for the well-being of such hospital or hospitals and the inmates thereof,

and from time to time to revoke, amend, and vary such regulations.

(2) All regulations made under the provisions of this section shall be published in the Gazette, and from the date of such publication shall have the same force and effect as if they were enacted in and formed part of this Ordinance; and every person acting in contravention of any regulation made under the provisions of this section shall be guilty of an offence, and shall be liable on conviction for each such offence to a fine not exceeding fifty rupees, or to imprisonment for any term not exceeding one month.

Penalty for breach of regulation.

* See also Articles 105 and 136 of the Constitution.

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Right of leper to administration of property or proceeds thereof under supervision of court.

14. Any leper detained in a leprosy hospital under the provisions of this Ordinance may apply to the District Court of the district in which he resided before his detention—

- (a) for the administration of his property under the supervision of the court by a manager nominated by such leper; or
- (b) for the sale of his property or any part of his property and the administration of the proceeds thereof under the supervision of the court.

Mode of application.

15. Every such application shall be made through the Superintendent of the said hospital in accordance with the form prescribed by the Schedule to this Ordinance.

Procedure upon receipt of application.

16. If the application is for the administration of the property, it shall be the duty of the court on the receipt of the application to cause a notice to be served upon the person nominated as manager by the leper to appear before him on a day fixed in the notice with a view to the consideration of the said application, and to cause to be served a copy of the said notice upon such of the relatives or dependants of the leper as it may consider necessary.

Appointment of manager.

17. If the person nominated by the leper consents to act as manager, and such person appears to the court to be a fit and suitable person so to act, the court shall appoint such person to act as the manager of the property of the leper.

Court may require further nomination.

18. (1) If the person so nominated decline to act as manager of the property of the leper, or, if the court shall be of opinion that such person is not a suitable person so to act, it may require the leper to nominate a suitable person who is willing to act, or alternatively to consent to the sale of the property, and the administration of the proceeds under the supervision of the court.

(2) If the leper fail to nominate a suitable person who is willing to act, or alternatively to notify his consent as aforesaid, the court shall proceed no further with the application.

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19. (1), If it shall appear to the court, having regard to the situation and condition in life of the leper and his family, and the amount and description of his property, that it is not expedient to appoint a manager of his property, the court may so inform the leper, and require him to state whether he consents to the sale of his property and to the administration of the proceeds thereof under the supervision of the court.

(2) If the leper so consents, the court may make order accordingly. If he fails so to consent, the court shall proceed no further with the application.

20. (1) Upon the appointment of the manager, the property of the leper shall vest in the manager, and shall be administered by him in trust for the leper under the direction of the court.

(2) Such manager may sue or he sued in respect of any claim by or against the leper affecting his property, and may exercise all the powers that might have been exercised by the leper in respect of his property :

Provided that no manager shall have power to sell or mortgage the property entrusted to him or any part thereof, or to grant a lease of any immovable property for any period exceeding five years without an order of the court.

21. (1) Every person appointed as a manager under this Ordinance shall, within a time to be fixed by the court, deliver in court in duplicate an inventory of the immovable property belonging to the leper, and of all such movable property, sums of money, goods, and effects as he may receive on behalf of the leper, together with a statement of all debts due by or to him.

(2) One copy of such inventory shall be filed of record in the court, and the other shall be served by the court upon the leper.

22. (1) Every such manager shall furnish to the court annually, within three months of the close of the year, an account in duplicate of the property in his charge, exhibiting the sums received and disbursed on account of the property and the balance remaining in his hands.

Power of court to decline to appoint manager and to suggest sale of property.

Power of manager.

Manager to deliver inventory and valuation.

Manager to furnish annual account.

(2) One copy of such account shall be filed of record in the court, and the other shall be served by the court upon the leper.

23. The leper, or any relative or dependant of the leper, may by petition to the court impugn the accuracy of any inventory or account rendered by a manager, and upon the receipt of any such petition the court may summon the manager and inquire summarily into the matter, and make such order thereon as it shall think proper.

24. It shall be lawful for a leper so declared under this Ordinance, or any relative of such leper, to sue for an account from any manager appointed under this Ordinance, or from his personal representative in case of his death.

25. The court on the application of the leper, or of any relative of the leper, or of its own motion, may impose a fine not exceeding five hundred rupees on any manager who wilfully neglects or refuses to deliver his accounts, or to obey any order of the court made with reference to the administration of the property of the leper, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of court, and may commit him to custody until he shall have furnished such account or complied with such order.

26. The court may for any sufficient cause on the application of the leper, or, with the consent of the leper, of its own motion, remove any manager appointed under this Ordinance, and with the consent of the leper appoint any other suitable person in his place, and may order the person so removed to make over the property in his hands to his successor, and to account to such successor for all moneys received or disbursed by him.

27. A manager may, subject to the consent of the leper and with the approval of the court, expend such portion of the income of the property in his charge as may be reasonable and necessary for the purpose of the support of any relative or dependant of the leper who has no other adequate means of support, and with the like

approval, and subject to such conditions as the court may direct, allow any relative or dependant of the leper to remain in the enjoyment of the property of the leper or any part thereof for the purpose aforesaid.

28. If the person appointed as manager of the property of a leper shall be unwilling to discharge the trust gratuitously, the court may fix such allowance to be paid out of the property of the leper as, under the circumstances of the case, may be thought suitable.

29. The court shall have the like power to order a manager of a leper's estate to give security for the due administration of the estate as a District Court has in the case of administration of a deceased person's estate.

30. A leper, or the manager of the property of a leper, or any person interested in the administration of the property, may apply at any time to the court by petition for the determination of any question arising in the course of the administration of the said property, and the court may thereupon, on hearing all persons interested, and after trying any issues that may be necessary to be tried for the purpose of the determination of such question, make such order as may seem just.

31. In any case in which a leper detained under this Ordinance applies to the court for the sale of the property or any part of his property, and for the administration of the proceeds thereof under the supervision of the court, the court, upon notice to all relatives of the leper which it may consider necessary to notify, and upon hearing all such persons interested who may desire to be heard upon such application, may make such order accordingly.

32. In any such case, or in any case in which under section 19 of this Ordinance the court otherwise orders a sale of the leper's property, the proceeds of the sale shall be paid into court, and such proceeds and the income thereof shall be applied for the benefit of the leper or his relatives or dependants in accordance with the orders of the court.

Leper or relative may impugn inventory or account.

Manager may be sued for an account.

Court may punish disobedient manager.

Court may remove manager.

Manager may apply property for support of relatives or dependants of leper.

Payment of manager.

Court may require security.

Determination of questions arising in the administration.

Sale of leper's property by order of court.

Application of proceeds of sale.

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Power of leper to apply to court.

33. In any case in which a court shall have ordered the property, or the proceeds of the sale of the property, of a leper to be administered under the supervision of the court, it shall be lawful for the leper at any time to petition the court—

- (a) for the application of any part of his property or the proceeds thereof for the benefit of the leper or any other person;
- (b) for the furnishing to such leper of any information as to the condition of his property which the leper may reasonably require,
- (c) for the issue of directions by the court for the administration of the property in accordance with the desires of the leper;
- (d) in respect of any other matters which the leper may consider for the advantage of himself or his relatives and dependants with reference to his property or the proceeds thereof,

and the court upon the consideration of any such petition may make such order as seems just.

Communi- cation from leper to court

34. (1) All applications, petitions, or communications presented to a court by a leper detained under this Ordinance may be made in writing signed by the leper, and forwarded through the Superintendent of the hospital in which he is detained, and a certificate purporting to be given by such Superintendent to the effect that any such

writing was signed by the leper shall be accepted by the court as prima facie evidence of such signature.

(2) All notices or other documents which may be required to be served upon a leper in the course of the administration of his property under this Ordinance may be served upon him by post through the Superintendent of the hospital in which he is detained, and a certificate purporting to be given by such Superintendent to the effect that any such notice or document was served upon the leper shall be accepted by the court as prima facie evidence of such service.

Service of notices. &c., upon lepers.

35. In making any order under this Ordinance the court shall have regard to the interests of the leper and his family and dependants, and may grant other relief than that asked for, and do all things necessary to adapt its order to the requirements of the case.

General powers of court.

36. Any order made by the District Court under this Ordinance shall be subject to an appeal to the Court of Appeal.

Appeals.

37. The court may direct in the case of the property or the proceeds of the property of any leper being administered under its supervision that, having regard to the amount of such property and the condition of life of such leper or his relatives or dependants, no stamp duty shall attach or be payable in respect of any application, petition, notice, affidavit, or other document, filed in court in the course of such administration by the leper, or his manager, or any relative or dependant.

Exemption from stamp duty.

SCHEDULE

[Section 15.]

FORM OF APPLICATION FOR THE ADMINISTRATION OF THE PROPERTY OF A LEPER

To the District Judge of

[..... a leper, detained at the Leprosy Hospital at make application that my properly may be administered under the supervision of the court, and I hereby nominate of as my manager.

2. My relatives and dependants are as follows :—

- (1)
- (2)
- (3)
- (4)

3. The list on the back hereof to the best of my belief is a full statement of my property and the value thereof.

Signature of Leper.

Signed and dated in the presence of the Superintendent of the said hospital.

Signature of Superintendent.

This day of 19

(Over.)

Description of Property	Value
	Rs. c.
Immovable property:—	
(1)	
(2)	
(3)	
(4)	
(5)	
(6)	
(7)	

Movable property :-

- Household property
- Jewellery
- Cattle
- Debts
- Cash, &c.

Total

FORM OF APPLICATION FOR THE SALE OF PROPERTY OF A LEPER

To the District Judge of

1. a leper, detained at the Leprosy Hospital at make application that my property* may be sold, and the proceeds thereof may be administered under the supervision of the court.

2. My relatives and dependants are as follows :—

- (1)
- (2)
- (3)
- (4)

* If a sale of only part of the leper's property is desired, the words " part of " should be inserted.

3. The list on the back hereof to the best of my belief is a full statement of my property and the value thereof.

4.*

Signature of Leper.

Signed and dated in the presence of the Superintendent of the said hospital.

Signature of Superintendent.

This day of 19

(Over.)

Description of Property	Value
	Rs. c.
Immovable property :—	
(1)	
(2)	
(3)	
(4)	
(5)	
(6)	
(7)	
Movable property :—	
Household property	
Jewellery	
Cattle	
Debts	
Cash, &c.	
Total . . .	

* If a sale of only part of the leper's property is desired, he should here indicate what he desires to have sold, either by specific enumeration or exception from the schedule of property endorsed on the back hereof.

CHAPTER 112

LEGAL AID

Law No. 27 of 1978.

A LAW TO PROVIDE FOR THE GRANT OF LEGAL ASSISTANCE TO DESERVING PERSONS AND FOR THAT PURPOSE TO ESTABLISH A LEGAL AID COMMISSION, AND A LEGAL AID FUND, FOR THE GRANT OF MONEYS TO THE FUND AND FOR THE DISBURSEMENT THEREOF, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[6th July, 1978.]

Short title.

1. This Law may be cited as the Legal Aid Law.

(d) such other assistance as may be necessary for the conduct of such proceedings.

Establishment of Legal Aid Commission.

2. (1) There shall be established a commission which shall be called the Legal Aid Commission (hereinafter referred to as the " Commission") consisting of the persons who are for the time being members of the Commission under section 5.

4. For the purpose of carrying out its objects the Commission may exercise and perform all or any of the following powers and functions ;—

Powers and functions of the Commission.

(2) The Commission 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) ensure that legal aid is provided in the most effective, efficient and economical manner ;

(3) The seal of the Commission—

(b) establish such number of regional or district committees or clinics as it considers necessary, to make legal aid available to as many persons as possible ;

(a) shall be in the custody of such persons as the Commission may from time to time determine ;

(c) determine the matters or classes of matters in respect of which legal aid may be given ;

(b) may be altered in such manner as may be determined by the Commission ; and

(d) determine guide-lines for the administration of the Legal Aid Scheme and for the allocation of work and funds taking into consideration :—

(c) shall not be affixed to any document except with the sanction of the Commission and in the presence of two members of the Commission who shall sign the document in token of their presence.

(i) the need to maintain the independence of the legal profession ;

Objects of the Commission.

3. The objects of the Commission shall be to operate throughout Sri Lanka an efficient Legal Aid Scheme to provide to deserving persons—

(ii) the desirability of an assisted person being referred to an attorney-at-law of his choice ;

(a) legal advice ;

(iii) the desirability of the services of paid legal staff being made use of where appropriate in the -grant of legal aid and the policy and conditions in that regard ;

(b) funds for the conduct of legal and other proceedings for and on behalf of such persons ;

(c) the services of attorneys-at-law to represent them;

- (iv) the need for legal assistance to be readily available and easily accessible to deserving persons ;
 - (e) determine, having regard to the funds available and taking into account all relevant recommendations, guide-lines to be observed in respect of payment of costs and disbursement by assisted persons where proceedings are decided, compromised or resolved ;
 - (f) consult with Government and local authorities, educational institutions and community, neighbourhood, professional, social and other groups having an interest in any aspect of the provision of legal aid ;
 - (g) promote, establish, finance and supervise research in respect of legal aid;
 - (h) initiate and carry out educational programmes designed to promote the understanding—
 - (i) by the members of the legal profession in respect of the need for a scheme of legal aid and their obligations and duties in the maintenance thereof and participation therein ;
 - (ii) by the members of the public, who have special needs in that respect, of their rights, powers, privileges and duties under the laws of Sri Lanka ;
 - (i) establish, administer, develop and co-operate in experimental programmes, law clinics and projects respecting any aspect of the provision of legal aid and for such purposes employ staff necessary to initiate, develop and operate the programmes and projects ;
 - (j) receive and encourage proposals from the public for new programmes and projects ;
 - (k) co-operate with educational institutions and bodies respecting the education and training of persons providing legal aid ;
 - (l) provide information to the public on the availability of legal aid ;
 - (m) make submissions to Law Reform agencies, both in Sri Lanka and abroad and to the State ;
 - (n) make an annual report to the Government of the Republic of Sri Lanka and interim reports to the Minister and the Legal Aid Advisory Council of the work done by the Commission ;
 - (o) subject to the provisions of this Law employ such persons and do all such acts as may be necessary to carry out the objects and to exercise the powers of the Commission ;
 - (p) own, purchase, alienate or mortgage any movable or immovable property.
- 5.** The Commission shall consist of nine members of whom—
- (a) three members (hereinafter referred to as " appointed members ") shall be appointed by the Minister ; and
 - (b) six members (hereinafter referred to as " nominated members ") shall be nominated by the Bar Council of Sri Lanka from among its members.
- 6.** (1) Every appointed member shall hold office for a period of three years and shall be eligible for reappointment.
- (2) The Minister may appoint any person to fill any casual vacancy occurring among the appointed members and any person so appointed shall hold office for the unexpired period of the term of office of the member whom he succeeds.
- 7.** (1) Of the six members nominated by the Bar Council immediately after the establishment of the 'Commission two members shall vacate office at the end of the first year and two members at the end of the second year. The determination as to the two members to vacate office at the end of each such year shall be determined by lot to be drawn among the members other than the member appointed under section 12 as Administrator of the Legal Aid Scheme if he be a nominated member, in the manner

Constitution of the Commission.

Term of office of appointed members.

Terms of office of nominated members.

decided by the Bar Council and such determination shall be communicated forthwith by the Bar Council to the Commission. The remaining two members shall vacate office at the end of the third year.

(2) The Bar Council shall nominate two persons from among its members to fill the vacancies occurring at the end of each such year and every person so nominated shall thereafter hold office for a period of three years.

(3) Whenever a casual vacancy occurs among the nominated members, the Bar Council shall nominate a person from among its members to fill such vacancy. Any person nominated to fill any casual vacancy shall hold office for the unexpired period of the term of office of the member whom he succeeds and shall for the purpose of the application of the provisions of subsection (2) be deemed to be that member.

(4) Every nominated member who vacates office shall be eligible for re-nomination.

Commission may act despite vacancy.

8. The Commission may act notwithstanding any vacancy among the members thereof.

Chairman of Commission.

9. The Commission shall appoint a member who is an attorney-at-law of not less than five years' standing at the Bar to be the Chairman of the Commission for a period of one year, but such member shall be eligible for reappointment.

Quorum for meetings of the Commission and regulation of procedure.

10. (a) The quorum for any meeting of the Commission shall be five members.

(b) Subject to any regulations made in that behalf, the Commission shall regulate its own procedure in regard to its meetings and the transaction of business at such meetings.

Vacation of office by member.

11. (1) Any member may resign his office by letter addressed—

(a) in the case of an appointed member, to the Minister ; and

(b) in the case of a nominated member, to the President of the Bar Association of Sri Lanka.

(2) A nominated member shall be deemed to have vacated his office on his ceasing to be a member of the Bar Council.

(3) (a) The Minister may if he thinks it expedient to do so remove a member appointed by him.

(b) Any nominated member may be removed from office on a resolution to that effect after due notice being given and passed by a majority of two-thirds of the members present at a meeting of the Bar Council.

12. (1) The Commission shall from among its members appoint with the concurrence of the Minister a member as Administrator of the Legal Aid Scheme on such terms, hours of work, methods of supervision and other conditions as to the Commission may seem fit.

Administrator of the Legal Aid Scheme.

(2) Remuneration from the Legal Aid Fund at such rates as the Minister may determine in consultation with the Commission shall be paid to such Administrator.

(3) The Administrator shall be subject to such directives as may be given by the Commission from time to time.

(4) The Administrator shall remain in office as long as he is a member of the Commission unless not less than two-thirds of the remaining members of the Commission decide that another member shall be appointed in his place.

13. In the exercise, discharge and performance of its powers, functions and duties, the Commission shall be subject to and act in accordance with such advice as the Bar Council may from time to time give.

Bar Council may give advice to the Commission-

14. There shall be a Council called the Legal Aid Advisory Council (hereinafter referred to as the " Advisory Council ") consisting of the Chief Justice of Sri Lanka who shall be the Chairman and thirty other members, of whom—

Legal Aid Advisory Council.

(i) nine members shall be the members of the Commission ;

(ii) three members shall be nominated by the Bar Association of Sri Lanka ;

- (in) six members shall be nominated by the Chief Justice, to represent the judiciary ; and
- (iv) twelve members shall be nominated by the Minister to represent all or any of the following interests that is to say. Government and local authorities, educational institutions and community, neighbourhood, professional, social organizations and other groups having an interest in the provision of legal aid.

be voted by Parliament for the purpose, which sum shall be expended in accordance with such general or special directions as the Minister may from time to time give.

Powers and functions of Advisory Council.

15. The Advisory Council shall have the power—

- (a) to examine and comment on all reports submitted , by the Commission ;
- (b) to generally advise the Minister and the Commission on the provision of legal aid services, their nature, scope and extent;
- (c) to advise on such other matters as the Minister or the Commission may refer to the Council for advice.

19. There shall be paid into the Fund— Payments to the Fund.

- (a) any gifts or donations of money made to the Commission by any person, body or Government ;
- (b) any grant received from the Government under section 18 ;
- (c) any income from investments or any other moneys received by the Commission.

Meetings of Advisory Council

16. (1) The Advisory Council shall meet as often as may be necessary and at least once in every six months.

(2) The quorum for a meeting of the Council shall be fifteen members.

(3) The meetings of the Advisory Council shall be convened by the Administrator who shall function for all purposes as Secretary to the Council.

(4) Regulations may be made prescribing the procedure in regard to the conduct of the business of the Advisory Council. Subject to any such regulations as may be made in that regard, such Council may regulate its own procedure.

20. There shall be paid out of the Fund Payments out of the Fund.

- (a) all expenses incurred in the establishment, maintenance and working of the Commission ;
- (b) the salaries of officers and servants of the Commission ;
- (c) such sums as may be determined by the Commission as payments to be made to attorneys-at-law not being officers or servants of the Commission whose services are obtained by the Commission ;
- (d) such other payments as are approved by the Commission as being necessary for the purpose of carrying out the objects of the Commission.

21. (1) The Commission shall be exempt from any income tax, wealth tax or other tax payable under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979). Exemption of Commission and donors from certain duties and taxes.

(2) The Commission shall be exempt from the payment of any customs duty on any goods imported by the Commission if the Minister in consultation with the Minister in charge of the subject of Finance approves the importation of such goods,

(3) Any instrument containing any agreement between the Commission and any other person providing for the payment by

Legal Aid Fund.

17. There shall be established a fund to be called the Legal Aid Fund (hereinafter referred to as the " Fund ") which shall be managed, controlled and operated by the Commission in accordance with such directions as it may give from time to time.

Annual grant by the Government to the Commission.

18. The Government shall grant to the Commission out of the Consolidated Fund for the purpose of carrying out the aims and objects of the Commission such sum as may

such person to the Commission of any sum as a donation shall be exempt from the payment of stamp duty.

(4) The amount of any donation made to the Commission by any person in the year preceding any year of assessment shall, for the purpose of computing his taxable income for that year of assessment under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), be deducted from his assessable income, and the making of such donation shall be deemed not to be a taxable gift for the purposes of that Act.

(5) The provisions of this section shall have effect notwithstanding anything to the contrary in the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 29 of 1979) and the Customs Ordinance.

Staff of the Commission.

22. (1) The Commission shall in the exercise of its powers under section 4 employ such officers and servants as it considers necessary for the performance and discharge of its functions or powers and shall exercise disciplinary control over them.

(2) Any payment of a salary or other emoluments or both salary and other emoluments in excess of five hundred rupees per month to any person shall be subject to the approval of the Minister.

Accounts and audit thereof.

23. (1) The Commission shall cause its accounts to be kept in such form and in such manner as the Minister may direct.

(2) The Commission shall cause its books to be balanced as on the thirty-first day of December in each year and shall, before the thirty-first day of March of the next year, cause to be prepared an income and expenditure account and a balance sheet containing a summary of the assets and liabilities of the Commission made up to the first-mentioned date. The income and expenditure account and the balance sheet shall be signed by the Chairman of the Commission, and by such officer of the Commission as may be authorized by the Commission to do so.

(3) The Commission shall have its accounts audited each year by the Auditor-General. For the purpose of assisting him in the audit of such accounts, the Auditor-General may employ the services of any

qualified auditor who shall act under his direction and control.

(4) For the purpose of meeting the expenses incurred by him in auditing the accounts of the Commission the Auditor-General shall be paid from the funds of the Commission such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance. Any remuneration received from the Commission by the Auditor-General shall, after deduction of any sums paid by him to any qualified auditor employed by him for the purpose of such audit, be credited to the Consolidated Fund.

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

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

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

(6) The Auditor-General and any person assisting him in the audit of the accounts of the Commission shall have access to all such books, deeds, contracts, accounts, vouchers and other documents of the Commission, as the Auditor-General may consider necessary for the purpose of the audit, and shall be furnished by the members or officers of the Commission with such information within their knowledge as may be required for such purpose.

(7) The Auditor-General shall examine the accounts of the Commission and furnish a report—

(a) stating whether he has or has not obtained all the information and explanations required by him ;

- (b) stating whether the accounts referred to in the report are properly drawn up to as to exhibit a true and fair view of the affairs of the Commission ; and
- (c) drawing attention to any item in the accounts which in his opinion may be of interest to Parliament in any examination of the activities and accounts of the Commission.

(8) The Auditor-General shall transmit his report to the Commission.

Annual report. **24.** (1) The Commission shall annually prepare a written report of the Commission's work and finances during the year completed, including any information furnished to, and directions given by, the Minister and shall transmit to the Minister and the Bar Council—

- (a) a copy of such report;
- (b) a copy of the income and expenditure account and balance sheet in respect of such year certified by the Auditor-General ; and
- (c) a copy of the Auditor-General's report.

(2) The Minister shall lay copies of the reports and statements referred to in subsection (1) before Parliament.

State land and State buildings, **25.** Any State land or any State building may, subject to such conditions as may be determined by the Minister with the concurrence of the Minister for the time being in charge of the subject of State lands, be made available for the use of, or be alienated to, the Commission for the purpose of the Commission or for the residence of any officer or servant of the Commission.

Protection of members, &c., of the Commission for action taken under this Law or on the direction of the Commission.

26. (1) No suit or prosecution shall lie against any member, officer, servant or agent of the Commission for any act which in good faith is done or is purported to be done by him under this Law or on the direction of the Commission.

(2) Any expense incurred by the Commission in any suit, prosecution or proceeding brought by or against the Commission before any court, tribunal or institution shall be paid out of the funds of

the Commission, and any costs paid to, or recovered by, the Commission in any such suit, prosecution or proceeding shall be credited to the funds of the Commission.

(3) Any expenses incurred by any such person as is referred to in subsection (1) in any suit, prosecution or proceeding brought against him before any court, tribunal or institution in respect of any act which is done or is purported to be done by him under this Law or on the direction of the Commission shall, if the court, tribunal or institution holds that such act was done in good faith, be paid out of the funds of the Commission, unless such expense is recovered by him in such suit, prosecution or proceeding.

27. No writ against person or property shall be issued against a member of the Commission in any action brought against the Commission.

No writ to issue against person or property of a member of the Commission.

28. (1) The Commission may make regulations generally for the purpose of giving effect to the principles and provisions of this Law and particularly in respect of any matter which is stated or required by this Law to be prescribed, or in respect of which regulations are required or authorized by this Law to be made.

Regulations.

(2) No regulation made under this Law shall have effect until it is approved by the Minister, confirmed by Parliament, and published in the Gazette.

29. All officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Commission deemed to be public servants.

30. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

The Commission deemed to be a scheduled institution within the meaning of Bribery Act.

31. In this Law, unless the context otherwise requires—

Interpretation.

: " Bar Council " means the Bar Council of the Bar Association of Sri Lanka ; and

" Bar Association of Sri Lanka " means the Association of attorneys-at-law of Sri Lanka formed and constituted on November 9, 1974, at the Law Library, Colombo.

CHAPTER 594

LOCAL AUTHORITIES (PENSIONERS' ALLOWANCES)

Ordinance AN ORDINANCE TO MAKE PROVISION FOR THE PAYMENT OF ALLOWANCES IN
 No. 26 of 1946. RESPECT OF THE INCREASED COST OF LIVING TO PENSIONERS OF LOCAL
 AUTHORITIES, AND TO VALIDATE CERTAIN SUCH PAYMENTS HERETOFORE
 MADE.

[23rd July. 1946.]

Short title. 1. This Ordinance may be cited as the authority to any pensioner of that authority
 Local Authorities (Pensioners' Allowances) in consideration of the increased cost of
 Ordinance. living and in respect of any period
 commencing not earlier than the 1st day of

Power of local authority to grant allowance. 2. Each local authority is hereby authority, in addition to his pension, a cost
 authorized to grant to any pensioner of that of living allowance in accordance with the
 provisions of section 3. 15th day of July. 1945, shall be deemed for
 all purposes to have been validly granted in
 like manner as though that authority had
 power to grant such allowances in respect of
 such period and to make payments of such
 allowances out of the local fund of that
 authority.

Period for which and rate at which allowance may be granted. 3. (I) The cost of living allowance under section 2 may be granted only in
 respect of periods commencing on or after
 the 16th day of July, 1945. and no such
 allowance may be granted in respect of any
 period subsequent to such date as may be
 specified in that behalf by the Minister by
 Order published in the Gazette.

(2) The amount of the cost of living allowance granted under section 2 in respect of any period shall be determined according to the rates applicable in the case of the corresponding allowance payable in respect of that period to pensioners in receipt of pensions from the Government.

Validation of grants already made. 4. Every allowance, by whatsoever name called, heretofore granted by any local

5. In this Ordinance— Interpretation.

" local authority " means any Municipal Council, Urban Council, Town Council and Village Council, and includes any Sanitary Board, Local Board, Village Committee, Provincial Road Committee or District Road Committee;

" pensioner " means any person who, having been employed in the service of any local authority, is for the time being in receipt of a pension from that authority.

CHAPTER 588

LOCAL AUTHORITIES (STANDARD BY-LAWS)

Act
No. 6 of 1952.

AN ACT TO AUTHORIZE THE FRAMING OF STANDARD BY-LAWS FOR ADOPTION BY LOCAL AUTHORITIES.

[16th January, 1952.]

Short title.

1. This Act may be cited as the Local Authorities (Standard By-laws) Act.

the area within the administrative limits of that authority, and shall for all purposes be deemed to be and have the same effect as by-laws made by that local authority under the appropriate provision of other written law specified in the declaration under the aforesaid subsection (2) or under powers conferred on that authority by any other written law.

Framing, publication, and approval of standard by-laws.

2. (1) It shall be lawful for the Minister to frame draft by-laws with respect to any subject or matter with respect to which a local authority is empowered by any other written law to make by-laws, and to cause such draft by-laws to be published in the Gazette.

(2) Draft by-laws shall, when published in the Gazette under subsection (1), be accompanied by a declaration specifying—

- (a) the class or each class of local authorities authorized to adopt the by-laws in accordance with this Act; and
- (b) the appropriate provision of other written law by which local authorities of each such specified class are empowered to make by-laws containing the provisions comprised in the draft by-laws.

(3) Where draft by-laws framed and published as hereinbefore provided are approved by resolution passed by Parliament, and notice of such approval has been published in the Gazette, the draft by-laws shall be standard by-laws for the purposes of this Act.

Adoption of standard by-laws by local authority.

3. (1) Any local authority of any class which is authorized in a declaration under subsection (2) of section 2 to adopt any standard by-laws may by resolution adopt such by-laws; and with effect from the date of the publication of such resolution in the Gazette or on such later date as may be specified in the resolution, the standard by-laws so adopted shall come into force in

(2) Nothing in any other written law requiring the approval, confirmation or ratification by any authority (including Parliament) of by-laws made by a local authority, shall apply or be deemed to apply in relation to standard by-laws adopted under this section.

For the purposes of this subsection, "approval" shall be deemed to include the passing by Parliament of a motion that by-laws be not disallowed.

(3) Where the standard by-laws with respect to any subject or matter come into force in the area within the administrative limits of any local authority, all by-laws with respect to that subject or matter previously made or deemed to have been made by that local authority under the appropriate provision of other written law specified in the declaration under subsection (2) of section (2), and all other by-laws inconsistent with the standard by-laws, shall be deemed to be repealed.

(4) The power conferred on any local authority by any other written law to make by-laws shall be deemed to include the power to amend, add to or repeal any standard by-laws adopted under this section, so however that no such amendment or addition may contain any

provision which that authority is not otherwise empowered to make under any other written law.

adopts the by-laws framed for the purposes of such amendment, revocation or replacement.

Power of Minister to amend or revoke standard by-laws.

4. (1) The Minister may, from time to time, frame draft by-laws amending, revoking or replacing any standard by-laws, and the provisions of section 2 shall, *mutatis mutandis*, apply to and in relation to any by-law so framed.

5. (1) Nothing in this Act shall be construed to abridge or otherwise affect the power of a local authority to make by-laws under any other written law.

Saving of general powers of local authorities. &c.

(2) Nothing in this Act shall be construed to confer on any standard by-law adopted by any local authority any greater validity than it would have had if it had been duly made by that authority under any other written law.

(2) Any such amendment, revocation or replacement of any standard by-laws which have already been adopted by any local authority shall not in any way affect their continuance in force in the area within the administrative limits of that authority, unless and until that authority by resolution

6. In this Act, " local authority " means any Municipal Council, Urban Council, Town Council, or Village Council,

Meaning of "local authority ".

CHAPTER 601

LOCAL AUTHORITIES HOUSING

Acts Nos.14 of 1964, 63 of 1979. AN ACT TO PROVIDE FOR THE VESTING IN LOCAL AUTHORITIES OF CERTAIN HOUSES BUILT ON STATE LANDS; TO GIVE POWER TO LOCAL AUTHORITIES TO LET SUCH HOUSES ON TERMS WHICH WILL ENABLE THE TENANTS TO BECOME OWNERS THEREOF; TO CONSTITUTE ADVISORY BOARDS TO GIVE ADVICE TO LOCAL AUTHORITIES ON HOUSING SCHEMES AND OTHER MATTERS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st Aprit. 1975.]

Short title. 1. This Act may be cited as the Local Authorities Housing Act.

Vesting of certain houses constructed on State lands in local authorities. 2. (1) With effect from the appointed date every house which on or before that date was constructed for the housing of one or more working or middle-class family or families on State land situated within the administrative limits of any local authority out of funds provided wholly by the Government, or partly by the Government and partly by that local authority, shall, together with the land appertaining thereto, vest in that local authority.

(2) Upon the construction after the appointed date of any house on State land situated within the administrative limits of any local authority for the housing of one or more working or middle-class family or families, the Minister shall by a vesting Order vest in that local authority that house and the land appertaining thereto.

(3) The preceding provisions of this section shall not apply to any house constructed or to be constructed on State land within the administrative limits of any local authority by the Department of National Housing or any other Government Department.

Power of local authority to let houses to persons on terms which enable them to become owners of such houses. 3. (1) Subject as hereinafter provided, a local authority may, either upon a resolution passed in that behalf at a duly constituted meeting of that local authority or upon the direction of the Minister, let to any person any house—

(a) which has vested in that local authority under section 2 ; or

(b) which has been, or may be, constructed by that local authority within the administrative limits of that local authority for the purpose of residence,

on such terms as will enable that person to become the owner of that house and the land appertaining thereto after making certain number of monthly payments as rent.

(2) In determining the person to whom a house to which this Act applies shall be let under subsection (1), the local authority shall have regard primarily to the interests of persons requiring housing accommodation, and shall in particular have regard to the following considerations, that is to say, that the house should be let at a reasonable rent to a person who is a citizen of Sri Lanka and whose name appears in the electoral list prepared for the general election of members of that local authority-

(3) Where any person is in occupation as a tenant of any house to which this Act applies, the local authority within the administrative limits of which such house is situated shall not let such house to any other person under the provisions of subsection (1)—

(a) except with the prior approval of the Advisory Board constituted for that local authority under this Act; and

(b) unless six months' notice in writing is given by that local authority to the first-mentioned person of its intention to so let such house to [§ 2, 63 of 1979.]

some other person and alternate accommodation is provided for the first-mentioned person by that local authority.

Special provisions regarding value of house for the purposes of determining rent.

4. Where any house to which this Act applies is let by a local authority under the provisions of section 3 (1) to a person who is at the time of such letting in occupation of such house as a tenant, the local authority shall, in the determination of the amount payable by such person by way of rent upon such letting, set off against the value of that house at the date of such letting a sum calculated at the rate of one *per centum* of the valuation of that house for each year of occupation or part thereof by such person prior to the date of such letting.

Payment of deposits.

5. (1) No house to which this Act applies shall be let to any person under the provisions of section 3 (1) unless such person pays to the credit of the local fund of that local authority a deposit of such sum as may be determined by that local authority.

(2) The deposit paid under subsection (1) or any part thereof may be forfeited if the person by whom such deposit was made commits a breach of any condition subject to which the house was let to him.

Power of local authority to transfer certain houses to which this Act applies. [§ 3, 63 of 1979.]

5A. (1) Where prior to the 15th day of October, 1979, a house to which this Act applies has been let to any person under the provisions of section 3 (1) and the monthly rental of such house immediately prior to such letting did not exceed twenty-five rupees, the local authority within the administrative limits of which that house is situated shall, by an instrument of disposition, transfer, free of charge, that house to that person.

(2) Where prior to the 15th day of October, 1979, a house to which this Act applies has been let to any person otherwise than under the provisions of section 3 (1) and the monthly rental of that house does not exceed twenty-five rupees, the local authority within the administrative limits of which that house is situated shall, by an instrument of disposition, transfer, free of charge, that house—

(a) to the tenant of that house who is in occupation thereof on the 15th day of October, 1979; or

(b) to the person in occupation of that house on the 15th day of October, 1979, where the tenant of that house is not in occupation thereof on that date,

if, and only if, the Advisory Board constituted for that local authority is satisfied that—

(i) such tenant or person in occupation, as the case may be, is in need of housing accommodation,

(ii) such tenant or person in occupation, as the case may be, is a citizen of Sri Lanka, and

(iii) the name of such tenant or person in occupation, as the case may be, appears in the electoral list prepared for the general election of members of that local authority.

(3) Where the Advisory Board constituted for a local authority decides that the tenant or person in occupation, as the case may be, of a house referred to in subsection (2) does not satisfy the requirements set out in paragraphs (i), (ii) and (iii) of that subsection—

(a) that tenant or person in occupation, as the case may be, may appeal against that decision to the Secretary to the Ministry charged with the subject of Local Government within fourteen days of the communication to him of that decision. The decision of such Secretary on any such appeal shall be final; and

(b) the local authority within the administrative limits of which such house is situated may, by an instrument of disposition, transfer, free of charge, that house to any person who satisfies those requirements.

(4) No transfer of a house shall be made by a local authority under paragraph (b) of subsection (3)—

(a) except with the prior approval of the Advisory Board constituted for that local authority;

LOCAL AUTHORITIES HOUSING

- (b) unless six months' notice in writing is given by that local authority to the tenant or person in occupation, as the case may be, of that house of its intention to so transfer that house to some other person and alternate accommodation is provided for such tenant or person in occupation, as the case may be, by that local authority ; and
- (c) until and unless any appeal made by the tenant or person in occupation, as the case may be, of such house under paragraph (a) of subsection (3) has been dismissed.

(5) Nothing in the Prevention of Frauds Ordinance shall apply to any instrument of disposition effecting a transfer under subsection (1) or subsection (2) or subsection (3) and no stamp duty shall be payable in respect thereof. The local authority executing any such instrument of disposition shall cause a copy thereof to be presented for registration to the Registrar of Lands of the district in which the house transferred by such instrument is situated. No fee shall be payable in respect of such registration.

(6) All expenses incurred by a local authority in transferring a house under this section shall be a charge on the funds of that local authority.

Advisory Boards.

6. (1) For each area within the administrative limits of a local authority, there shall be constituted an Advisory Board consisting of—

- (a) if the local authority is a Municipal Council, the Mayor, or in his absence, the Deputy Mayor, or if the local authority is other than a Municipal Council, the Chairman, or in his absence, the Vice-Chairman of that local authority;
- (b) the Medical Officer of Health, or the officer in charge of the sanitation, of the local authority ;
- (c) the Assistant Commissioner of Local Government of the region in which the local authority is situated ;

(d) if the local authority is a Municipal Council, the Director, Town and Country Planning or his authorized representative, or, if the local authority is other than a Municipal Council, the Executive Engineer for the area within the administrative limits of that local authority ; and

(e) a member of that local authority elected to serve on the Advisory Board on a resolution passed in that behalf at a duly constituted meeting of that local authority.

(2) An Advisory Board shall advise the local authority on all matters relating to the execution of housing schemes by that local authority and to the determination of the person to whom houses to which this Act applies shall be let and on any other matter on which the local authority requires advice.

(3) A local authority shall act on the advice of the Advisory Board and any disagreement on any matter between the local authority and the Board shall be referred to the Minister for his decision and such decision shall be binding on the local authority.

7. (1) A local authority shall have a fund called the Housing Extension Fund.

Housing Extension Fund.

(2) There shall be paid into the Housing Extension Fund—

(a) all sums received as rent by the letting of houses to which this Act applies; and

(b) any sum allocated by the Government by way of grant to that local authority for housing projects, or any sum raised by way of loan by that local authority for such projects or voted by that local authority for such projects, or any sum paid by way of donation to that local authority for such projects.

(3) No sum shall be paid out of the Housing Extension Fund except on the advice of the Advisory Board.

Expenses of letting houses under [his Act.

8. All expenses incurred by a local authority in the letting of houses to which this Act applies shall be a charge on the local fund of that authority.

commencement of such letting and when such person becomes the owner thereof;

Duty of tenants to vacate houses on termination of occupation.

9. (1) The occupier of any house to which this Act applies and his dependants shall not be entitled to occupy such house after the date of the lawful termination of his occupation thereof; and accordingly the occupier shall on that date vacate the house, deliver possession thereof to the local authority within the administrative limits of which such house is situated, and together with his dependants, if any, depart from the land on which the house is situated.

(c) the circumstances under which the tenancy of such person shall be terminated by the local authority;

(d) the conditions under which title to such house shall pass to the person to whom such house is let;

(e) the procedure relating to the meetings of an Advisory Board; and

(f) any other matter which appears to be necessary for the purposes of this Act.

(2) In any case where the occupier of any house to which this Act applies fails to comply with the provisions of subsection (1), the provisions of Part V of the National Housing Act relating to the recovery of possession of houses shall, *mutatis mutandis*, apply in relation to such house, subject to the following modifications, namely, that the expression " landlord " in that Part shall have the meaning " local authority within the administrative limits of which the house is situated", and the expression "house to which this Part applies " in that Part shall have the meaning " house to which this Act applies ".

(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.

Every regulation so approved shall be valid and effectual as though it were herein enacted.

Signing of documents on behalf of local authority.

10. The Mayor of a Municipal Council or his representative or, in the case of any other local authority, the Chairman of that local authority is hereby authorized to sign on behalf of that local authority all documents required to be signed or executed in the exercise, discharge or performance by that local authority under this Act of any powers, functions or duties.

11A. Nothing in this Act shall apply to, or in relation to, any house to which this Act applies which has been let by a local authority to an officer or servant of that local authority as official quarters.

This Act not to apply to houses to which this Act applies let to officers or servants of local authorities. [§ 4, 63 of 1979.]

Regulations.

11. (1) The Minister may make regulations in respect of the following matters:—

(a) the conditions subject to which any house to which this Act applies shall be let to any person ;

(b) the documents which have to be signed and executed by the local authority and the person to whom such house is let at the

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

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

" house " includes a flat;

" house to which this Act applies" means—

(a) any house which has vested in a local authority under section 2 of this Act, or

(b) any house which has been, or may be, constructed by a local authority for the purpose of residence within the administrative limits of that local authority; and

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

Interpretation.

CHAPTER 590

LOCAL AUTHORITIES

(IMPOSITION OF CIVIC DISABILITIES) (No. 1)

Law No. 38 of 1978. A LAW TO IMPOSE CIVIC DISABILITIES ON PERSONS AGAINST WHOM FINDINGS HAVE BEEN MADE BY A COMMISSION OF INQUIRY AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[14th August. 1978.]

Preamble. WHEREAS under section 2 of the Commissions of Inquiry Act (Chapter 393) a Commission of Inquiry consisting of Gardiye Punchihewage Amaraseela Silva, Esquire, was appointed by the President by Warrant dated August 19, 1977, and published in Ga/ette Extraordinary No. 278/12 of August 20, 1977, to inquire into and report upon the matters set out in the said Warrant arising out of the administration of the affairs of each Municipality specified in such Warrant:

(2) In the preparation and certification under the Local Authorities Elections Ordinance of an electoral list for any electoral area of any local authority the name of every relevant person shall be omitted notwithstanding that the name of such person appears in the operative parliamentary register or part thereof as correspond to the electoral area of such local authority.

AND WHEREAS the said Commission of Inquiry had in its Reports made certain findings against certain persons :

(3) The nomination of any such person as a candidate at any such election or the inclusion of the name of any such person in any list or lists of candidates shall be deemed, for all purposes, to be null and void.

AND WHEREAS it has become necessary in the public interest to impose civic disabilities on the said persons and to make other provisions consequent upon the findings of the said Commission :

3. Every person who is disqualified under the provisions of section 2(1) shall be incapable for all time from being appointed to any judicial office or from being employed as a state officer or an employee of the Local Government Service, any local authority or any scheduled institution or from being elected or appointed or nominated as a member of any scheduled institution or the governing body thereof.

Disqualifi- cation from judicial or other public office.

BE it therefore enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

Short title, 1. This Law may be cited as the Local Authorities (Imposition of Civic Disabilities)(No. 1) Law.

Relevant persons disqualified from voting or being elected-

2. (1) Every relevant person shall, for a period of seven years from the date of commencement of this Law, be disqualified from being registered as a voter or from voting at any election of members of any local authority or from being nominated as a candidate at any election of a member or members of any local authority or from being elected or from sitting or voting as a member of any local authority.

4. Every person against whom any finding has been made in any of the reports of the aforesaid Commission of Inquiry and who at the date of any such report was a state officer or an employee of the Local Government Service or of any local authority and who is dismissed or discontinued from service after compliance with such procedure as may be applicable to the disciplinary control of the category to which such person belonged, shall become subject to the same disqualifications as a

Disqualifi- cations applicable to stale and other officers who are dismissed from service consequent upon the Commission's reports.

**LOCAL AUTHORITIES
(IMPOSITION OF CIVIC DISABILITIES) (No. 1) [Cap.590**

relevant person as set out in sections 2 and 3 from the date of dismissal or discontinuance from service.

Recovery
of losses.

5. (1) Where in any report of the said Commission any finding has been made against any person whomsoever that loss has been caused to any local authority by such person, the Auditor-General shall assess the amount of such loss and issue a certificate under his hand certifying the amount of such loss, after having given an opportunity to such person to make representations to him in regard to the assessment of the amount of such loss by the Auditor-General.

(2) The correctness of any statement in any such certificate or the amount of the loss certified therein shall not be called in question in any proceeding in any court for the recovery of such loss, or otherwise, and shall be conclusive of all matters contained therein, and shall be admissible in evidence in the recovery proceedings hereinafter referred to.

(3) A copy of such certificate shall be served on the person named therein, and such person shall pay to the Auditor-General the amount set out in the certificate within a period of thirty days from the date of the posting of such certificate to him.

(4) A copy of such certificate shall be deemed to have been duly served upon it being sent to such person by post in a registered letter addressed to his last known place of residence.

(5) The Auditor-General shall credit all such payments received by him to the respective local authority to which the loss has been found to have been caused in such reports.

(6) Where any person to whom a certificate has been delivered as aforesaid fails to pay the amount due from him as set out in such certificate within the time aforesaid, such amount shall be deemed to be in default and shall be recovered on application made by the Auditor-General or an officer authorized in writing by him in that behalf to the Magistrate's Court having jurisdiction over the place where the person

resides or is last known to have resided as though such amount were a fine imposed by such Magistrate on such person, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction.

6. Every person disqualified under this Law who—

Offences
under this
Law.

- (a) applies to be registered as a voter in any electoral list in respect of any local authority;
- (b) votes at an election of any member of any local authority;
- (c) signifies his consent to be nominated as a candidate at the election of any member of any local authority;
- (d) sits and votes as a member of any local authority;
- (e) accepts the office or acts in the capacity of a judicial officer, state officer or employee of the Local Government Service, any local authority or any scheduled institution;
- (f) consents to be nominated for election, or accepts appointment, or accepts nomination, as a member of any scheduled institution or the governing body thereof,

shall be guilty of an offence, 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 three months or to both such fine and imprisonment.

7. In this Law, unless the context otherwise requires—

Interpretation.

" 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 and perform powers and functions corresponding to or similar to the powers and functions exercised and performed by any such Council;

**LOCAL AUTHORITIES
(IMPOSITION OF CIVIC DISABILITIES) (No. 1)**

relevant person " means a person who has been found by any report of the Commission of Inquiry referred to in this Law—

(a) to have committed or to have aided or abetted in the commission of any act constituting—

(i) abuse of power,

(ii) corruption,

(iii) irregularities in the making of appointments;

(b) to have contravened, or to have aided or abetted in the contravention of, any provisions of any written law,

and means each person specified in the Schedule to this Law;

" scheduled institution " means any such board, institution, corporation or other body as is for the time being specified in the Schedule to the Bribery Act, and any board, institution, corporation or other body which is deemed under the provisions of any enactment to be a scheduled institution within the meaning of the Bribery Act, and includes any organization the capital of which is wholly or partly subscribed by such board, institution, corporation or other body;

" state officer " means a state officer as defined in the Constitution of the Republic of Sri Lanka adopted and enacted on the 22nd day of May, 1972,* and includes a public officer.

[Section 7.]

SCHEDULE

Abdul Hameed Mohamed Fowzie, Ex-Mayor, Colombo Municipal Council.

Felix Reginald Dias Bandaranaike, Ex-Minister of Public Administration, Local Government and Home Affairs.

Mohamed Sheriff Mohamed Zarook, Ex-Councillor, Colombo Municipal Council.

Mohamed Haniffa Joufferus Saddique, Retired Municipal Assessor, Colombo Municipal Council.

Nugegodage Don Nicholas Gunasekare, Retired Special Commissioner, Negombo Municipal Council.

Biyawilage Joseph Perera, Retired Technical Staff Assistant, Dehiwala-Mt, Lavinia Municipal Council.

Upali Rajapakse, Ex-Mayor, Ratnapura Municipal Council.

Patison Samaraweera, Ex-Councillor, Ratnapura Municipal Council.

* Repealed by the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

**LOCAL AUTHORITIES
(IMPOSITION OF CIVIC DISABILITIES) (No. 2) [Cap.591**

CHAPTER 591

**LOCAL AUTHORITIES
(IMPOSITION OF CIVIC DISABILITIES) (No. 2)**

Law A LAW TO IMPOSE CIVIC DISABILITIES ON PERSONS AGAINST WHOM FINDINGS HAVE
No.39of 1978. BEEN MADE BY A COMMISSION OF INQUIRY AND TO PROVIDE FOR MATTERS
CONNECTED THEREWITH OR INCIDENTAL THERETO.

[14th August. 1978.]

Preamble. WHEREAS under section 2 of the Commissions of Inquiry Act (Chapter 393) a Commission of Inquiry consisting of Senerat Wijegoonewardene, Esquire, was appointed by the President by Warrant dated September 14, 1977, and published in Gazette Extraordinary No. 282/13 of September 14, 1977, to inquire into and report upon the matters set out in the said Warrant arising out of the administration of the affairs of each Town specified in such Warrant:

AND WHEREAS the said Commission of Inquiry had in its Report made certain findings against certain persons :

AND WHEREAS it has become necessary in the public interest to impose civic disabilities on the said persons and to make other provisions consequent upon the findings of the said Commission ;

BE it therefore enacted by the National State Assembly of the Republic of Sri Lanka as follows :—

Short title. 1. This Law may be cited as the Local Authorities (Imposition of Civic Disabilities) (No. 2) Law.

Relevant persons disqualified from voting or being elected. 2. (1) Every relevant person shall, for a period of seven years from the date of commencement of this Law, be disqualified from being registered as a voter or from voting at any election of members of any local authority or from being nominated as a candidate at any election of a member or members of any local authority or from being elected or from sitting or voting as a member of any local authority.

(2) In the preparation and certification under the Local Authorities Elections Ordinance of an electoral list for any electoral area of any local authority the name of every relevant person shall be omitted notwithstanding that the name of such person appears in the operative parliamentary register or part thereof as correspond to the electoral area of such local authority.

(3) The nomination of any such person as a candidate at any such election or the inclusion of the name of any such person in any list or lists of candidates shall be deemed, for all purposes, to be null and void.

3. Every person who is disqualified under the provisions of section 2(1) shall be incapable for all time from being appointed to any judicial office or from being employed as a state officer or an employee of the Local Government Service, any local authority or any scheduled institution or from being elected or appointed or nominated as a member of any scheduled institution or the governing body thereof.

Disqualification from judicial or other public office.

4. Every person against whom any finding has been made in the report of the aforesaid Commission of Inquiry and who at the date of such report was a state officer or an employee of the Local Government Service or of any local authority and who is dismissed or discontinued from service after compliance with such procedure as may be applicable to the disciplinary control of the category to which such person belonged, shall become subject to the same disqualifications as a

Disqualifications applicable to state and other officers who are dismissed from service consequent upon the Commission's reports.

**LOCAL AUTHORITIES
(IMPOSITION OF CIVIC DISABILITIES) (No. 2)**

relevant person as set out in sections 2 and 3 from the date of dismissal or discontinuance from service.

Recovery of losses.

«

5. (1) Where in the report of the said Commission any finding has been made against any person whomsoever that loss has been caused to any local authority by such person, the Auditor-General shall assess the amount of such loss and issue a certificate under his hand certifying the amount of such loss, after having given an opportunity to such person to make representations to him in regard to the assessment of the amount of such loss by the Auditor-General.

(2) The correctness of any statement in any such certificate or the amount of the loss certified therein shall not be called in question in any proceeding in any court for the recovery of such loss, or otherwise, and shall be conclusive of all matters contained therein, and shall be admissible in evidence in the recovery proceedings hereinafter referred to.

(3) A copy of such certificate shall be served on the person named therein, and such person shall pay to the Auditor-General the amount set out in the certificate within a period of thirty days from the date of the posting of such certificate to him.

(4) A copy of such certificate shall be deemed to have been duly served upon it being sent to such person by post in a registered letter addressed to his last known place of residence.

(5) The Auditor-General shall credit all such payments received by him to the respective local authority to which the loss has been found to have been caused in such report.

(6) Where any person to whom a certificate has been delivered as aforesaid fails to pay the amount due from him as set out in such certificate within the time aforesaid, such amount shall be deemed to be in default and shall be recovered on application made by the Auditor-General or an officer authorized in writing by him in that behalf to the Magistrate's Court having jurisdiction over the place where the person

resides or is last known to have resided as though such amount were a fine imposed by such Magistrate on such person, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction.

6. Every person disqualified under this Law who—

Offences under this Law.

- (a) applies to be registered as a voter in any electoral list in respect of any local authority;
- (b) votes at an election of any member of any local authority;
- (c) signifies his consent to be nominated as a candidate at the election of any member of any local authority ;
- (d) sits and votes as a member of any local authority;
- (e) accepts the office or acts in the capacity of a judicial officer, staff officer or employee of the Local Government Service, any local authority or any scheduled institution;
- (f) consents to be nominated for election, or accepts appointment, or accepts nomination, as a member of any scheduled institution or the governing body thereof,

shall be guilty of an offence, 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 three months or to both such fine and imprisonment.

7. In this Law, unless the context otherwise requires—

Interpretation.

"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 and perform powers and functions corresponding to or similar to the powers and functions exercised and performed by any such Council;

**LOCAL AUTHORITIES
(IMPOSITION OF CIVIC DISABILITIES) (No. 2) [Cap. 591**

" relevant person " means a person who has been found by the report of the Commission of Inquiry referred to in this Law—

(a) to have committed or to have aided or abetted in the commission of any act constituting—

(i) abuse of power,

(ii) corruption,

(iii) irregularities in the making of appointments;

(b) to have contravened, or to have aided or abetted in the contravention of, any provisions of any written law,

and means each person specified in the Schedule to this Law ;

scheduled institution" means any such board, institution, corporation or other body as is for the time being specified in the Schedule to the Bribery Act, and any board, institution, corporation or other body which is deemed under the provisions of any enactment to be a scheduled institution within the meaning of the Bribery Act, and includes any organization the capital of which is wholly or partly subscribed by such board, institution, corporation or other body;

state officer" means a state officer as defined in the Constitution of the Republic of Sri Lanka adopted and enacted on the 22nd day of May, 1972,* and includes a public officer.

[Section 7.]

SCHEDULE

Somasiri Galagedare. Ex-Chairman, Kolonnawa Urban Council-

Titus Gunatilake, Ex-Chairman, Panadura Urban Council.

Balappuwaduge Noel Theodore Mendis. Ex-Member. Panadura Urban Council.

Wanniarachchige Martlnus Fonseka. Ex-Chairman, Horana Urban Council.

Wanniarachchige Edmund Wanigasekare, Ex-Chairman, Talawakelle-Lindula Urban Council.

Sinna Meerapillai Mohamed Ibnu. Ex-Chairman. Puttlam Urban Council.

Halawath Mudiyanseelage Kiribanda. Ex-Vice-Chairman, Kegalle Urban Council.

George Rajapakse Senanayake, Ex-Chairman, Minuwangoda Urban Council.

Kiri Banda Sathkumara, Ex-Special Commissioner, Kuliapitiya Urban Council.

Mihindukulasuriya Joseph Petronius Fernando, Ex-Special Commissioner, Chilaw Urban Council.

Neal de Alwis. Ex-Deputy Minister of Public Administration, Local Government and Home Affairs.

Madduma Patabendige Leelaratne, Ex-Chairman, Weligama Urban Council.

Dodanduwa Lebhewage Handy Silva, Ex-Member, Weligama Urban Council.

Don William Samarasinghe. Ex-Member. Weligama Urban Council.

Hewawaialam Goluwa Marakkalage Richard Silva. Ex-Member, Weligama Urban Council.

Weltasinghe Appuhamilage Edmund Peiris, Ex-Special Commissioner, Nawalapitiya Urban Council.

Liyanage Granville Dickson Perera, Ex-Special Commissioner, Nawalapitiya Urban Council.

• Repealed by the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

Kariyawasam Pathirana Sumathipala, Ex-Special Commissioner, Nawalapitiya Urban Council.

Udayasiri Bodhiprema Dassanayake, Ex-Special Commissioner, Anuradhapura Urban Council.

Balasuriya Arachchiralalage Punchibanda Balasuriya, Ex-Chairman, Kegalle Urban Council.

Purudunayake Waduge Abeyralne, Ex-Member, Kegalle Urban Council.

Peter Rajakaruna, Ex-Member, Kegalle Urban Council.

Kaluarachchige Cyril Belin, Ex-Member, Kegalle Urban Council.

Gurunnanselage Don Joseph Wijesinghe, Ex-Chairman, Peliyagoda Urban Council.

Francis Hewagamage Simon Victor Perera, Ex-Vice-Chairman, Peliyagoda Urban Council.

Wijesekera Abeyralne Don Wilson Peter, Ex-Member, Peliyagoda Urban Council.

CHAPTER 513

LEPROSY ASSOCIATION OF SRI LANKA

Law
No. 21 of 1974.

A LAW TO INCORPORATE THE LEPROSY ASSOCIATION OF SRI LANKA.

[27th June, 1974.]

- Short title. **1.** This Law may be cited as the Leprosy Association of Sri Lanka Law. and to foster their interest and to enlist their co-operation in carrying out such measures;
- Incorporation of the Leprosy Association of Sri Lanka. **2.** From and after the date of commencement of this Law, the members for the time being of the Leprosy Association of Sri Lanka (hereinafter referred to as the " Association ") and such and so many persons as shall after that date be admitted members of the said Association shall be a body corporate with perpetual succession under the name "The Leprosy Association of Sri Lanka " (hereinafter referred to as "the Corporation ") and may, by the said name, sue and be sued in all courts, and shall have full power and authority to use a common seal and to alter the same at its pleasure.
- General objects of the Corporation. **3.** The general objects for which the Corporation is constituted are hereby declared to be—
- (a) to assist in every possible way in the prevention and control of leprosy in Sri Lanka;
- (b) to collaborate with the Government or with any Local Government authority or any other association in Sri Lanka or abroad on any project or undertaking with the same aims and objects ;
- (c) to communicate information concerning the causes, symptoms and signs, prevention and treatment of the disease.
- (d) to inform the public of measures undertaken to combat the disease
- (e) to provide facilities for giving assistance to patients and their dependants and for the rehabilitation of patients ; and
- (f) to assist in every possible way in research work connected with the prevention and control of the disease.
- 4.** The affairs of the Corporation shall be administered by an executive body called the Council, composed of the office-bearers of the Association, such other members as may be provided by the rules of the Corporation and such number of persons with such qualifications and exercising such powers and for such periods as may be provided by the said rules. The Council.
- 5.** 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 payable to the Association shall be paid to the Corporation for the purposes of this Law. Debts due and payable to Corporation.
- 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 Law and subject to the rules for the time being of the Power of the Corporation to hold property.

Corporation with full power to sell, mortgage, lease, exchange or otherwise dispose of the same.

9. The rules set out in the Schedule* to this Law shall for all purposes be the rules of the Corporation :

Rules in the schedule to be the rules of the Corporation.

Seal of the Corporation.

7. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of the General Secretary and a member of the Council of the Association duly authorized for the purpose by rules 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.

Provided, however, that nothing in this section contained shall be held or be construed to prevent the Corporation at all times hereafter from making fresh rules or from altering, amending or adding to the existing rules or to rules which are hereafter made by the Corporation.

Power to make rules.

8. It shall be lawful for the Corporation from time to time, to make, subject to the provisions of sections 9 and 10, rules for the admission, withdrawal or expulsion of members, for the conduct of the duties of the Council and of the various officers, agents and servants of the Association, for the procedure to be observed at meetings, for the transaction of the business of the Association, for the administration and management of the property of the Association, for the determination of the subscription payable by members and the collection of such subscriptions, and otherwise generally for the management of the affairs and the accomplishment of the objects of the Association.

10. No rule in the Schedule* to this Law shall be altered, added to, amended, or rescinded and no rule shall hereafter be made, except on a special resolution of which not less than eight clear days' notice has been given, and unless such resolution has been passed by the majority votes of two-thirds of the members present and voting at a general meeting of the members of the Association.

Amendment, &c., of 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 those claiming by, from, or under them.

Saving of rights of the Republic and others.

• Schedule omitted.—Private enactment.

CHAPTER 593

LOCAL AUTHORITIES (SPECIAL PROVISIONS)

Acts
Nos 3 of 1979,
12 of 1979.

AN ACT TO PROVIDE FOR THE DISCIPLINARY CONTROL AND DISMISSAL OF OFFICERS AND SERVANTS OF LOCAL AUTHORITIES WHO ARE NOT MEMBERS OF THE LOCAL GOVERNMENT SERVICE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[9th January, 1979.]

Short title.

1. This Act may be cited as the Local Authorities (Special Provisions) Act.

Application of this Act. [§ 3, 12 of 1979.]

2. This Act shall apply to—

(a) every officer or servant of any local authority, other than a member of the Local Government Service constituted under the Local Government Service Law;

(b) every person who was at any time, an officer or servant of any local authority, other than a member of the Local Government Service constituted under the Local Government Service Law, whose services had been terminated or who had retired from such service and in respect of whom an application is pending before a labour tribunal in respect of such termination or in respect of non-payment of any pension, gratuity or retiring allowance due to him or the inadequacy of such pension, gratuity or retiring allowance ;

(c) every officer or servant of a local authority, other than a member of the Local Government Service constituted under the Local Government Service Law, who at any time after July 8, 1978, and prior to January 9, 1979, had retired from the service of, or whose services had been terminated by, such local authority,

hereinafter referred to as a " person to whom this Act applies ".

3. (1) Where a person to whom this Act applies was or is dealt with disciplinarily, or his services were or are terminated, by the local authority in question, he may, if he is aggrieved by any such disciplinary order or order of termination of service, make a single appeal to the Minister against such order.

(2) Where the Minister receives an appeal under subsection (1) he shall, after receiving the recommendations of the Local Government Service Disciplinary Board established under the Local Government Service Law, confirm, vary or set aside the order made by the local authority.

(3) A confirmation, variation or the setting aside of an order of a local authority made by the Minister under subsection (2) shall be binding on the local authority and the person in question, and shall be final and conclusive and not called in question in any court of law or tribunal.

4. (1) Where a person to whom this Act applies has retired or retires from the service of any local authority and he is aggrieved by the non-payment of any pension, gratuity or retiring allowance due to him or by the inadequacy of any such pension, gratuity or retiring allowance, he may make a single appeal to the Minister against such non-payment or such inadequate payment, as the case may be.

(2) Where the Minister receives an appeal under subsection (1), he shall give directions to the local authority in question with regard to such non-payment or inadequate payment.

Procedure regarding disciplinary action and termination of service of persons to whom this Act applies. [§4, 12 of 1979.]

[§4, 12 of 1979-]

Procedure regarding non-payment or inadequate payment of pension, gratuity and retiring allowances. [§5, 12 of 1979.]

LOCAL AUTHORITIES (SPECIAL PROVISIONS) [Cap. 593

[§5,12 of 1979.]

(3) Every direction given by the Minister under subsection (2) shall be binding on the local authority and the person in question, and shall be final and conclusive and not called in question in any court of law or tribunal.

Power of Minister to delegate power to a public officer.

5. (1) The Minister may delegate to any public officer his power to hear an appeal—

(a) made under section 3 (1), other than an appeal on an order of termination of service;

(b) made under section 4(1),

and the person so delegated shall in respect of an appeal under section 3 (1) exercise such power after receiving the recommendations of the Local Government Service Disciplinary Board:

Provided, however, that notwithstanding such delegation of authority to a public officer, the Minister may in any case exercise the power of hearing an appeal against an order of any local authority and the public officer to whom such power was delegated, shall not exercise such power in such case.

(2) A confirmation, variation or setting aside of an order of a local authority made or a direction given by a public officer under subsection (1) shall be binding on the local authority and the person in question, and shall be final and conclusive and not called in any court of law or tribunal.

[§6, 12 of 1979.]

Industrial Disputes Act not to apply to persons to whom this Act applies. [§7, 12 of 1979.]

6. (1) Notwithstanding anything in the Industrial Disputes Act, that Act shall not apply to or in relation to any person to whom this Act applies.

(2) Every application made under the Industrial Disputes Act to a labour tribunal, to which any person to whom this Act applies is a party, and which is pending on the date of commencement of this Act, shall stand dismissed,

[§7, 12 of 1979.]

(3) Where an application stands dismissed under subsection (2) any person

to whom this Act applies who was a party to such application, may appeal to the Minister under section 3 or 4 of this Act, as may be appropriate.

7. The provisions of this Act shall have effect notwithstanding anything to the contrary in the Municipal Councils Ordinance, the Urban Councils Ordinance, the Town Councils Ordinance and the Village Councils Ordinance.

This Act to prevail over laws relating to local authorities.

8. (1) The Minister may make rules in Rules. respect of all or any of the following matters:—

(a) the time limit within which and the manner in which appeals have to be made; and

(b) the time limit within which the Local Government Service Disciplinary Board shall submit its recommendations.

(2) Every rule made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein,

9. In this Act unless the context otherwise requires—

"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 officer" shall have the same meaning as in the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

**LOCAL AUTHORITY QUARTERS
(RECOVERY OF POSSESSION)**

[Cap. 583]

CHAPTER 583

**LOCAL AUTHORITY QUARTERS
(RECOVERY OF POSSESSION)**

Law A LAW TO MAKE PROVISION FOR THE RECOVERY OF POSSESSION OF QUARTERS
No. 42 of 1978. PROVIDED BY OR ON BEHALF OF LOCAL AUTHORITIES FOR THE OCCUPATION
OF PERSONS; TO ENABLE THE PRESCRIPTION OF TERMS AND CONDITIONS
SUBJECT TO WHICH SUCH QUARTERS MAY BE ALLOCATED TO EMPLOYEES OF
LOCAL AUTHORITIES. AND FOR MATTERS CONNECTED THEREWITH OR
INCIDENTAL THERETO.

[6th September. 1978.]

Short title.	1. This Law may be cited as the Local Authority Quarters (Recovery of Possession) Law.	<i>(b)</i> to deliver vacant possession of such quarters to the competent authority or other person authorized in that behalf and specified in the notice,
Application of this Law,	2. The provisions of this Law- <i>(a)</i> shall apply to all local authority quarters; and <i>(b)</i> shall be deemed at all times to have been, and to be, an implied condition of the occupation by persons of such quarters.	before the expiry of such period, not less than two months, as shall be specified in such notice. (2) Where such resolution referred to in subsection (1) has been passed, the competent authority shall serve such notice on the occupier accordingly, stating the reasons for the passing of such resolution.
Service of quit notice.	3. (1) Where- <i>(i)</i> the period for which any local authority quarters were given to the occupier of such quarters has expired; or <i>(ii)</i> such occupier has been transferred from the station which qualified him to occupy such quarters; or <i>(iii)</i> such occupier has been transferred from the post which qualified him to occupy such quarters; or <i>(iv)</i> such occupier to whom such quarters were originally given has resigned, retired, vacated his post, been discontinued from service or died, any local authority may pass a resolution at any meeting of such local authority, that notice shall be served by the competent authority on such occupier, requiring him— <i>(a)</i> to vacate such quarters together with his dependants, if any; and	(3) Every notice served on an occupier under subsection (2) in respect of any local authority quarters is in this Law referred to as a "quit notice". (4) A quit notice in respect of any local authority quarters shall be deemed to have been served on the occupier of such quarters if such notice is sent by registered post to such occupier, at such quarters. (5) Every quit notice shall be in the Form A set out in the Schedule to this Law.
		4. (1) Any person aggrieved by the service of a quit notice on him by the competent authority, under section 3, may, within a period of one month reckoned from the date on which such quit notice was served on such person, appeal in writing to the Minister against the requirement contained in such notice to vacate such local authority quarters and deliver vacant possession thereof before the expiry of the

Right of appeal
to Minister.

**LOCAL AUTHORITY QUARTERS
(RECOVERY OF POSSESSION)**

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period specified in such notice. Such appeal shall be forwarded to the Minister through the competent authority.

(2) Where an appeal is preferred under subsection (1) the quit notice served on the appellant in respect of such quarters shall cease to take effect till the determination of the appeal.

(3) The Minister may, on an appeal under subsection (1), make an order—

- (a) allowing the appeal; or
- (b) disallowing the appeal wholly or subject to the condition that the execution of the quit notice shall be stayed for the period stated in the order.

(4) The decision of the Minister on such appeal shall be final and conclusive and shall not be called in question in any court.

Obligation to comply with a quit notice.

5. Where a quit notice has been served on the occupier of any local authority quarters—

- (a) neither such occupier nor any dependant of his shall be entitled to occupy such quarters after the expiry of the period within which such occupier is required by such quit notice to vacate such quarters; and
- (b) such occupier shall, before the expiry of that period, vacate such quarters and deliver vacant possession thereof to the authority or person to whom he is required to do so by the quit notice.

Effect of non-compliance with a quit notice or Minister's order on appeal.

6. (1) In any case where the occupier of any local authority quarters fails to comply with the provisions of paragraph (b) of section 5 in respect of any quit notice served on him relating to any such quarters, or any order made by the Minister under section 4 (3), the competent authority may make an application in the Form B set out in the Schedule to this Law, to the Magistrate's

Court having jurisdiction over the area in which such quarters are situated—

- (a) setting forth the following facts, namely—
 - (i) that he is a competent authority for the purposes of this Law;
 - (ii) that a quit notice was served on the occupier of such quarters ;
 - (iii) the reason for the serving of such quit notice on the occupier; and
 - (iv) that such occupier has failed to comply with the provisions of paragraph (b) of section 5 in respect of such notice relating to such quarters, or the order made by the Minister under section 4 (3), as the case may be; and

(b) praying for the recovery of possession of such quarters and for the ejectment of such occupier and his dependants, if any, from such quarters.

(2) Every application under subsection (1) shall be supported by an affidavit in the Form C set out in the Schedule to this Law, verifying the facts set forth in such application, and shall also be accompanied by a copy of the quit notice.

(3) Every application supported by an affidavit and accompanied by a copy of the quit notice under the preceding provisions of this section is in this Law referred to as an " application for ejectment ".

(4) Every application for ejectment shall be conclusive evidence of the facts stated therein.

(5) A stamp duty shall not be payable for any application for ejectment.

7. Upon receipt of an application for ejectment in respect of any local authority quarters, a Magistrate's Court shall forthwith issue, and if need be reissue, a writ of possession to the Fiscal of that Court

Proceedings on receipt of an application for ejectment.

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(RECOVERY OF POSSESSION)**

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requiring and authorizing such Fiscal before a date specified in the writ, not being a date earlier than three or later than seven clear days from the date of issue of such writ, to deliver possession of such quarters to the competent authority or other person authorized in that behalf and specified in the quit notice relating to such premises. Such writ shall be sufficient authority for the said Fiscal or any police officer authorized by him in that behalf, to enter such quarters with such assistants as the Fiscal or such officer shall deem necessary and to give possession accordingly, and to eject the occupier and his dependants, if any, from such quarters.

(b) in relation to an Urban Council, or a Town Council, the Secretary of that Council;

(c) in relation to a Village Council, an officer of that Council nominated for the purpose by the Assistant Commissioner of Local Government of the region in which that Council is situated; and

(d) in relation to 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 Municipal Council, Urban Council, Town Council or Village Council, an officer of that Authority nominated for the purpose by the Assistant Commissioner of Local Government of the region in which that Authority is situated;

Exclusion of application of the Rent Act.

8. The provisions of the Rent Act shall not apply to the ejection of any person in occupation of any local authority quarters,

Regulations.

9. (1) The Minister may, from time to time, make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law or for prescribing the terms and conditions subject to which local authority quarters may be allocated to employees of local authorities.

(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 therein.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

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

Interpretation.

10. In this Law, unless the context otherwise requires—

"competent authority " means—

(a) in relation to a Municipal Council, the Municipal Commissioner of that Council;

" dependant" in relation to the occupier of any local authority quarters, means any person who is dependent on the occupier, whether as spouse, child or otherwise and includes any other person who is permitted by the occupier to reside in such quarters;

" 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;

" local authority quarters" means any such building or room or other accommodation occupied or used for the purposes of residence as is provided by or on behalf of any local authority and includes any

**LOCAL AUTHORITY QUARTERS
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land or premises in which such building or room or other accommodation is situated;

" occupier " in the event of the death of the occupier includes a dependant of the occupier.

[Section 3 (5).]

SCHEDULE

Section 3(5)

FORM A

QUIT NOTICE

1. (state name and designation) a competent authority for the purposes of the Local Authority Quarters (Recovery of Possession) Law. do by virtue of the powers vested in me by section 3 of that Law, require you(state name and designation, if any) the occupier of local authority quarters (state address of such quarters)—

(a) to vacate possession of such quarters together with your dependants, if any ; and

(b) to deliver vacant possession of such quarters to me,* (state name and designation) a competent authority for the purposes of that Law*/or (state name and designation, if any),

before the expiry of a period of months commencing on..... (state date), in terms of the resolution No.....dated passed by(state local authority) on the ground that you have (state reasons)^

Signature and designation of competent authority.

Date:

* Omit, if inapplicable.

†State whether the period for which the local authority quarters were given to the occupier of such quarters has expired, or whether the occupier has been transferred from the simian which qualified him to occupy such quarters : or whether the occupier has been transferred from she post which qualified him to occupy such quarters: or whether the occupier m whom such quarters were originally ^iven has resigned, reitired. vacated his post. been discontinuedfrom service or died.

[Section 6.]

Section 6

FORM B

APPLICATION FOR EJECTMENT

TO the Magistrate's Court of..... (state name of such Court)

1.. (state name and designation) a competent authority for the purposes of the Local Authority Quarters (Recovery of Possession) Law. do by virtue of the powers vested in me by section 6 of thai Law, by this application--

(a) set forth the following facts, namely,—

(i) that I am such competent authority ;

(ii) thai a quit notice (a copy of which is attached to this application) was served on(state name and designation, if any) the occupier of local authority quarters..... (state address of such quarters) in terms of the resolution No..... dated passed by (state local authority);

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(iii) that the reason for the serving of such quit notice as aforesaid on such occupier was that*
.....: and

(iv) that such occupier has failed to comply with the provisions of paragraph (b) of section 5 of that Law in respect of such notice relating to such quarters or with the order made by the Minister under section 4 (3) of that Law (a copy of which order is attached to this application);

(b) pray for the recovery of possession of such premises and for the ejection of such occupier and his dependants if any, from such premises.

.....
Signature and designation of competent authority.

Date: ---,

**State whether the period for which the local authority quarters were given to the occupier of such quarters has expired, or whether the occupier has been transferred from the station which qualified him to occupy such quarters ; or whether the occupier has been transferred from the post which qualified him to occupy such quarters: or whether the occupier to whom such quarters were originally given has resigned, retired, vacated his post, been discontinued from service or died.*

FORM C

[Section 6(2).]

AFFIDAVIT

I, (state name and designation) do, as required by section 6 (2) of the Local Authority Quarters (Recovery of Possession) Law, hereby, solemnly, sincerely and truly affirm and declare/swear—

(a) that I am a competent authority for the purposes of that Law ;

(b) that a quit notice (a copy of which is attached to my application for ejection) was served under that Law on (state name and designation, if any) the occupier of local authority quarters..... (state address of such quarters) in terms of a resolution No dated passed by (state local authority);

(c) that the reason for the serving of such quit notice as aforesaid on such occupier was that*; and

(d) that such occupier has failed to comply with the provisions of paragraph (b) of section 5 of that Law in respect of such notice relating to such quarters or with the order of the Minister under section 4 (3) of that Law (copy of which order is attached to the application for ejection).

Signature and designation, if any, of person administering the affirmation oath.

Date:

**State whether the period for which the local authority quarters were given to the occupier of such quarters has expired, or whether the occupier has been transferred from the station which qualified him to occupy such quarters ; or whether the occupier has been transferred from the post which qualified him to occupy such quarters ; or whether the occupier to whom such quarters were originally given has resigned, retired, vacated his post, been discontinued from service or died.*

CHAPTER 311

LOAN BOARD

Ordinances AN ORDINANCE TO PROVIDE FOR THE CONSTITUTION AND MANAGEMENT OF THE LOAN BOARD AND TO MAKE CERTAIN UNCLAIMED BALANCES AVAILABLE FOR CERTAIN PUBLIC PURPOSES.

Acts Nos. 2 of 1950, 5 of 1952,

Law No. 33 of 1973.

[1st July. 1866.]

Short title. 1. This Ordinance may be cited as the Loan Board Ordinance.

Finance may from time to time, direct to be paid out of the Consolidated Fund to such commissioners, secretary, clerks, and officers as aforesaid, such salaries or remuneration as to him shall appear reasonable.

LOAN BOARD AND OFFICERS

Minister to appoint Commissioners of Loan Board. 2. It shall be lawful for the Minister, from time to time as occasion may require, to appoint three or more fit and proper persons to be the Commissioners of the Loan Board, and to nominate one of them to be the Chief Commissioner; and they shall hold office during pleasure, and exercise the duties and powers hereby conferred on them.

MEETINGS OF LOAN BOARD

6. Meetings of the commissioners for the despatch of business shall be held, and special meetings shall be convened at such times and with such notice to the commissioners as shall be fixed by general rules made under section 9. Meetings of commissioners.

Commissioners to appoint secretary, clerks, &c. 3. The commissioners may, with the prior approval of the Minister in charge of the subject of Finance, appoint a secretary and such number of other officers as may be necessary to assist them in the execution of the duties and powers hereby conferred on them.

7. The Chief Commissioner shall be the chairman of such meeting. In his absence it shall be competent to the commissioners to elect one of their own body. Chairman.

Treasurer. 4. The Deputy Secretary to the Treasury shall be the treasurer of the Loan Board, provided, however, that nothing herein contained shall prevent the Deputy Secretary to the Treasury being appointed a commissioner in addition.

8. All acts whatsoever authorized or required by virtue of this Ordinance to be done by the Loan Board may and shall be done and decided by the majority of the commissioners, such number not being less than two. When the votes of the commissioners present in regard to any question shall be equally divided, the chairman, besides his vote as a commissioner, shall have a casting vote. Majority to decide. Quorum.

Salaries. 5. The Minister with the concurrence of the Minister in charge of the subject of

Casting vote.

RULES AND REGULATIONS

Commissioners may make rules and regulations.

9. It shall be lawful for the commissioners to make such rules and regulations as they may deem expedient for any of the following purposes :—

- (a) for regulating the meetings and proceedings of the commissioners;
- (b) for determining the securities upon which loans are to be made and the charges payable by borrowers;
- (c) for determining the rates of interest on loans and deposits ;
- (d) for determining the distribution of interest realized upon the loans;
- (e) for regulating the books and forms of accounts to be kept and rendered ;
- (f) for providing for every other matter not herein specially provided for, but necessary for the due regulation of the board and the funds thereof;

Provided that such rules and regulations be not repugnant to or inconsistent with any of the provisions of this Ordinance, and that copies thereof with all convenient speed be transmitted to the Minister for the approval, amendment, or disallowance thereof by the Minister; and the said rules so approved or amended shall thereupon become as legal, valid, and effectual as if the same had been inserted herein.

GENERAL PROVISIONS

Commissioners to be trustees.

***11.** All moneys and estate forming at present the funds of the Loan Board, and which are invested by or in the name of the Registrar of the Supreme Court, or lying in deposit subject to the disposal of the Loan Board, or which are vested in, due to, or in any way within the power or under the control of either of them, shall be deemed to be vested in the said Commissioners of the

Loan Board hereunder appointed in trust for the use of the persons who shall be entitled to the same, and for the uses, ends, and purposes further in this Ordinance provided and declared.

12. (1) It shall be lawful for (he said commissioners from time to time to lend out at interest all such moneys hereby vested in them as trustees as aforesaid, or which may have been or may hereafter be transmitted by or from or on account of the several courts and Judges of Sri Lanka to the Treasury, subject to such rules and regulations regarding investment, security, change of securities, interest, conditions, and administration as they may from time to time make as herein provided.

Commissioners. to invest suitors' funds, subject to certain rules.

(2) When the commissioners receive payment of the whole or any part of the amount due in respect of any loan granted by them on the security of a mortgage of any property, the writing or instrument for effecting, as the case may be, the discharge of the mortgage bond or the release of any part of the property from any liability under that bond, may, notwithstanding anything contained in section 8, be executed either by the Chief Commissioner and one other of the commissioners or by the Chief Commissioner and the person for the time being holding the office of secretary of the Loan Board; and every writing or instrument so executed shall be as valid and effectual for all purposes as if it had been executed by each and every one of the commissioners.

13. The commissioners hereby appointed shall be entitled to sue upon all bonds, obligations, mortgages, and securities, and all contracts whatever heretofore granted to or made by the Loan Board or the Registrar of the Supreme Court on behalf of the Loan Board, and to recover the same, and to appear in all suits or proceedings already commenced or taken in which the Loan Board or the said Registrar is interested, for and on behalf of the Loan Board ; and all bonds, obligations, mortgages, and all contracts whatsoever to, by, or with the commissioners hereunder appointed, and all suits and actions by or

Commissioners to sue and be sued

* Section 10 is omitted, as it is a transitory provision, which has taken effect.

against the said commissioners, shall be made to, by, or with them, and shall be instituted by or against them, under the name of " The Commissioners of the Loan Board ", without specifying the names of the individual commissioners or any of them; and no action shall abate by reason of the death, removal, resignation, incapacity, or going out of office of any of them ; and the service of all process in any suit or action against the said commissioners shall be made on the secretary.

month, process of parate execution against the body and effects of such person; and every such court is hereby authorized and directed on the application of the said commissioners, verified by affidavit of any commissioners swearing to the existence of the obligation and default, forthwith, and without further notice or delay, to issue such process.

Duty of Board to keep books of account. [§ 2, Law 33 of 1973.]

14. (1) The Commissioners of the Loan Board shall from time to time order and direct a book or books to be kept, in which shall be entered true and regular accounts in respect of each financial year, of all sums of money received, paid and expended by the Loan Board, or due to the Loan Board, and of the several articles, matters and things in respect of which sums of money shall have been disbursed, in such form and manner as may be prescribed by the rules and regulations made in that behalf under section 9 of the Ordinance.

17. (1) Where in a hypothecary action an order is made that any property mortgaged to the commissioners shall be sold, the commissioners may purchase the mortgaged property or any part thereof in the same manner and subject to the same restrictions and conditions as may other mortgagees in similar circumstances.

Power of commissioners to purchase property.

(2) All property so purchased shall be conveyed to the commissioners as such, and it shall not be necessary to mention the names of the commissioners in the conveyance, and after such conveyance the property shall vest in the commissioners from time to time without any further conveyance or transfer.

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

(3) The commissioners shall hold property so purchased by them upon trust to sell the same as and when, in their opinion, a sale shall be beneficial and until sale shall have full power to manage the property and expend money thereon and to let the same.

Power of Auditor-General to audit accounts. [§ 3, Law 33 of 1973].

15. All accounts of the Loan Board kept under section 14 or otherwise shall be subject to audit by the Auditor-General, who shall have the power at all times, by himself or by any person appointed by him in writing, to inspect all books and documents of accounts, and to call for the production of all mortgage bonds, contracts, vouchers and documents of whatever nature necessary for the verification of such accounts.

(4) All conveyances on sale, leases, agreements, and other documents relating to property so purchased by the commissioners may be executed by the Chief Commissioner and either the secretary of the Loan Board for the time being or at least one other commissioner, and the conveyances on sale, leases, agreements, and other documents so executed shall be as valid and effectual as if they had been executed by each and every of the said commissioners.

Parate execution.

16. It shall be lawful for the Commissioners of the Loan Board to sue out from any court having jurisdiction over the person or effects of any person who now owes or may hereafter owe money to the Loan Board, and who shall not repay the principal amount at the period by his obligation stipulated, in one month after demand made in writing by or in the name of the said commissioners, or shall make default in the payment of the stipulated interest, due on the same for more than one

(5) All purchases hitherto made by the commissioners of properties mortgaged to them are hereby declared to be as valid and effective for all intents and purposes as if this section had been in force at the time of such purchase, and the properties so purchased shall vest in the commissioners from time to time without any further conveyance or transfer and shall be subject to the provisions of subsection (3) of this section.

Reimbursement of expenses borne by the Government. [§ 4, Law 33 of 1973.]

18. Out of the aggregate interest due to the Loan Board at the end of each financial year, from the investments made under section 12, the commissioners shall pay to the Government of the Republic, in respect of each such financial year, a sum equal to the amount for the time being approved by the Minister and the Minister in charge of the subject of Finance as the equivalent of, or the nearest approximation to, the aggregate expenses incurred or borne by that Government in connexion with the management of the affairs of the Board.

Agents to transmit moneys to the Treasury.

***19.** At the end of every month the Government Agent of each administrative district in Sri Lanka shall transmit to the Treasury at Colombo the balance, if any, which at the end of every such month shall be in his hands to the credit of each and every District Court within his district, or if such balance be in favour of such Government Agent in account with any of the District Courts within his district, he shall then draw upon the said Treasury for the amount of such balance; and all suitors and other persons entitled to the moneys so transmitted to the Treasury shall be entitled to the same advantages and interest, subject to the same conditions as the moneys now under the administration of the Loan Board are entitled and subject to, or to which they shall become entitled and subject by any rules and regulations to be made as herein provided.

Disposal of moneys long unclaimed.

20. Whereas certain moneys heretofore administered by the Loan Board have been in deposit for very long periods of time and no claims have been preferred to them, and the retention of them in the books and accounts of the board is productive of much inconvenience, it is enacted as follows:—

- (1) If any sum of money, not being less than one hundred rupees, now or which may hereafter come under the administration of the Loan Board shall have been in deposit to the credit of any person or estate, and shall not have been claimed by any person having a just and lawful right thereto for the period of thirty

years next succeeding the date of the last deposit (other than a deposit made by the commissioners on account of interest), or the last withdrawal authorized in that case by the order of a competent court, or having been claimed, such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case every account with such person or estate shall be closed, and all such money shall, owing to the lapse of such period, become the property of the State, and shall be paid over by the Commissioners of the Loan Board to the Deputy Secretary to the Treasury, to be carried to the account of the Consolidated Fund :

Provided, however, that in any case where any money subject to a trust or belonging to a minor or to a person adjudged to be of unsound mind, is so carried to the account of the Consolidated Fund, if any person at any time thereafter establishes a claim to the whole or any part of such money to the satisfaction of the court, the Minister with the concurrence of the Minister in charge of the subject of Finance may authorize the payment to that person, out of the Consolidated Fund, of such sum, not exceeding the amount which was carried in that case to the account of the Consolidated Fund, as may be specified in the order made by the court upon that claim.

- (2) If any sum of money, being less than one hundred rupees, now or which may hereafter come under the administration of the Loan Board shall have been in deposit to the credit of any person or estate, and shall not have been claimed by any person having just and lawful right thereto for ten years from the date of the last deposit, or the last withdrawal authorized in that case

* Section 19 has become inoperative resulting from the introduction of the new sections 296 and 297 of the Civil Procedure Code by Law No. 20 of 1977.

LOAN BOARD

by the order of a competent court, or having been claimed, such claim shall have been abandoned, withdrawn, or not prosecuted within one year from the date of claim, or if such claim has been set aside, then and in every such case every account with such person or estate shall be closed ; and all such money shall, owing to the lapse of time, be paid over by the Commissioners of the Loan Board to the Deputy Secretary to the Treasury, to be carried to the account of the Consolidated Fund :

Provided, however, that in any case where any person makes a claim to the whole or any part of such money within the period of twenty years next succeeding the date on which the money is so carried to the account of the Consolidated Fund and establishes such claim to the satisfaction of the court, such sum, not exceeding the amount so carried to the account of the Consolidated Fund, as may be specified in the order made by the court upon that claim, may be paid to that person out of the Consolidated Fund;

Provided further, that in any case where any money subject to a trust

or belonging to a minor or to a person adjudged to be of unsound mind, is so carried to the account of the Consolidated Fund, if any person, even after the period of twenty years next succeeding the date on which the money is so carried to the account of the Consolidated Fund, establishes to the satisfaction of the court a claim to the whole or any part of such money the Minister with the concurrence of the Minister in charge of the subject of Finance may authorize the payment to that person, out of the Consolidated Fund, of such sum, not exceeding the amount so carried to the account of the Consolidated Fund, as may be specified in the order made by the court upon that claim.

(3) Every claim under the foregoing provisions of this section shall be made by way of summary procedure, under Chapter XXIV of the Civil Procedure Code, in the action to the credit of which the money is in deposit immediately before it is carried to the account of the Consolidated Fund, and the Attorney-General and all persons known to have any interest in or claim to such money shall be made parties to the application.

21. Nothing herein contained shall be deemed to affect the liability of the Loan Board to account to the different courts for the moneys placed in deposit by the orders of such courts, or to conform to and comply with such orders as it has heretofore done.

Nothing herein to affect liability of board to account to courts or to execute its orders

CHAPTER 353

LAND BETTERMENT CHARGES

Law No. 28 of 1976.

A LAW TO PROVIDE FOR THE LEVY OF BETTERMENT CHARGES ON LANDS WITHIN AREAS WHERE THE VALUE OF LAND HAS INCREASED AS A RESULT OF THE CONSTRUCTION WITHIN THOSE AREAS OF CERTAIN DEVELOPMENT PROJECTS, FINANCED IN WHOLE OR IN PART BY THE STATE, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

Short title, and date of operation.

1. This Law may be cited as the Land Betterment Charges Law, 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*.

of a local authority, the Order declaring such area to be a betterment area shall be made with the concurrence of the Minister in charge of the subject of Local Government;

Land betterment charges to be levied on lands within certain areas.

2. Subject as hereinafter provided, a charge to be known as the land betterment charge shall be levied on—

Provided further that no Order made under the preceding provisions of this section shall have effect until it is approved by Parliament and published in the Gazette.

- (a) every land situated within an area declared to be a betterment area by an Order made under section 3; and
- (b) every agricultural land situated within an area declared to be a benefited area by an Order made under section 17.

(2) Every such Order shall specify the limits of the betterment area referred to in such Order, the name of the development project in relation to which such betterment area is declared, and the date from which land betterment charges shall be levied in such betterment area.

PART I—BETTERMENT AREAS

Power of Minister by Order to declare an area as a betterment area.

3. (1) Where the value of land in any area has appreciated or is likely to appreciate as a result of the construction or establishment of, or improvement effected to, a development project in such area, and where the expenditure incurred in such construction, establishment or improvement was provided in whole or in part by the State or by a public corporation, the Minister may by Order published in the Gazette, declare such area to be a "betterment area":

4. The Government Agent of every administrative district shall be the land betterment charges officer of that administrative district for the purpose of this Part of this Law, and accordingly every such Government Agent shall exercise the powers and perform the duties conferred or imposed on a land betterment charges officer under this Part of this Law in relation to each betterment area falling within his administrative district.

Government Agents to be land betterment charges officers.

Provided however that where any area to be declared a betterment area or part thereof falls within the administrative limits

5. (1) As soon as may be after the publication of an Order under section 3, the land betterment charges officer for the administrative district within which the betterment area specified in such Order is situated, shall prepare a statement of all the lands situated within such betterment area.

Land betterment charges officer to prepare a statement of lands within the betterment area.

* Not in operation on 31st December, 1980.

(2) Every statement prepared under subsection (1) shall contain the names of all the lands in the betterment area, the extents thereof, the names of the owners thereof, and where any such land is held in trust, the names of the trustees thereof, and where such trustees cannot be ascertained, the names of the persons entitled to the beneficial interest in such land, the amount of the land betterment charge payable in respect of each such land as calculated under section 7, and such other particulars as may be prescribed.

in respect of any such land, or to any of the particulars specified in such statement in respect of any such land.

(3) The land betterment charges officer shall at the same time serve a notice in the same terms as the notice referred to in subsection (2) by registered post to the owner of every land specified in such statement, and where any such land is held in trust, to the trustees thereof, and where such trustees cannot be ascertained, to the persons entitled to the beneficial interest in such land.

Land betterment charges officer in consultation with the Chief Valuer to prepare an assessment of the market value of the lands in a betterment area.

6. The land betterment charges officer shall, in consultation with the Chief Valuer, prepare in respect of every land contained in the statement prepared under section 5, an assessment of—

- (a) the market value of such land immediately prior to the construction or establishment of, or improvement to, the development project in relation to which the betterment area is declared; and
- (b) the market value of such land one year after such construction, establishment or improvement.

Computation of land betterment charges.

7. The land betterment charges officer shall fix a land betterment charge, in respect of every land specified in the statement prepared under section 5, calculated at fifty *per centum* of the increase in the market value of such land, as shown in the assessment prepared under section 6.

Copies of statement prepared under section 5 to be exhibited in certain public places.

8. (1) The land betterment charges officer shall cause copies of the statement prepared under section 5 to be exhibited in the office of the local authority, post office, office of the divisional Assistant Government Agent and in such other places within the betterment area as are in his opinion are resorted to by the public of the area.

(2) To every such copy there shall be attached a notice inviting the owners of, or other persons having an interest in, the lands specified in such statement to notify before such date as may be specified therein their objections, if any, to the inclusion of any such land in such statement or to the amount of the land betterment charge fixed

9. (1) Every objection made in response to any notice given under section 8 shall be in writing and shall be sent to the land betterment charges officer by registered post before the date specified in such notice. The person making such objections shall hereinafter in this section be referred to as "the objector".

Objections to be sent by registered post to land betterment charges officer.

(2) On receipt of any objection sent under subsection (1), the land betterment charges officer shall notify the objector of the date, time and place fixed for the inquiry into such objections:

Provided that the date fixed for such inquiry shall in no case be earlier than fourteen days from the date of the notice notifying the objector of the date fixed for such inquiry;

Provided further that where any objection sent under subsection (1) relates to any dispute as to the ownership of any land specified in the statement prepared under section 5, or as to the beneficial interest in such land, the land betterment charges officer shall refer such dispute to the District Court or Primary Court having jurisdiction over the place where such land is situated, according as the value of such land does or does not exceed one thousand five hundred rupees and the provisions of section 11, section 12, section 13 and section 14 of the Land Acquisition Act shall, *mutatis mutandis*, apply to every such reference.

(3) The land betterment charges officer shall, at any inquiry held under this section, grant the objector an opportunity of adducing evidence in support of his

objections, and he may, after considering the evidence so adduced, exclude the land in relation to which the objection has been taken, from the statement prepared under section 5, or vary or modify the land betterment charge fixed in respect of such land, or delete or vary any of the particulars specified in such statement in respect of such land.

(4) The decision of the land betterment charges officer under subsection (3) shall be communicated to the objector in writing.

Appeals to Minister.

10. (1) Any person aggrieved by the decision of the land betterment charges officer under subsection (3) of section 9, may within thirty days after the communication of such decision to him, make a written appeal from such decision to the Minister. Where no appeal is made from the decision of the land betterment charges officer within the time allowed therefor, such decision shall be final and conclusive and shall not be questioned in any court.

(2) The Minister may on any appeal made to him under this section, confirm or vary the decision from which the appeal was made, and the decision of the Minister on such appeal shall be final and conclusive and shall not be questioned in any court.

Land betterment charges officer to amend statement to give effect to decisions of the District Court, Primary Court and Court of Appeal.

11. The land betterment charges officer shall delete or vary any of the particulars specified in the statement prepared under section 5 to give effect to—

- (a) every decision of a District Court or Primary Court on a reference made to such District Court or Primary Court under section 9 (2);
- (b) every decision of the Court of Appeal acting in appeal from a decision of the District Court or Primary Court on a reference made to such District Court or Primary Court under section 9 (2); and
- (c) every decision of the Minister on an appeal made to the Minister under section 10.

Persons liable to pay the land betterment charge.

12. (1) The person whose name appears as the owner of, or as trustee of, or as the person having a beneficial interest in, any land specified in the statement prepared

under section 5, in the year in which such statement is first prepared, shall be liable to pay the land betterment charge fixed in respect of such land, or where the amount of such land betterment charge has been varied or modified under section 9 or section 10, the amount so varied or modified.

(2) The land betterment charge fixed in respect of any land shall be payable in such number of annual instalments not exceeding twenty as the land betterment charges officer may in his discretion determine.

13. Where there is a change of ownership of any land specified in the statement prepared under section 5, after the date on which such statement is first prepared, and the new owner of such land indicates to the land betterment charges officer in writing, his willingness to pay the balance instalments of the land betterment charge payable in respect of such land, the land betterment charges officer shall record the name of the new owner in the entry relating to such land in such statement, and the new owner shall thereafter be liable to pay the balance instalments of the land betterment charge payable in respect of such land.

Where there is a change of ownership of land, new owner may pay balance of land betterment charge payable in respect of such land.

14. (1) The land betterment charges officer shall by notice sent by registered post, inform every person liable to pay a land betterment charge under section 12, of the amount payable by such person as land betterment charge, and the number of instalments in which such amount is payable.

Persons liable to pay land betterment charge to be informed by notice.

(2) The land betterment charges officer shall at the end of each year, by notice sent by registered post to every person liable to pay a land betterment charge, demand the payment of the instalment payable by him in respect of that year,

(3) Every person who receives a notice under subsection (2) shall comply with such notice within one month of the receipt thereof.

15. Where any land in respect of which a land betterment charge is payable is subject to a change of ownership, the amounts paid as a land betterment charge on such land by the person disposing of the ownership of such land, shall be deductible from the amount assessed as the value of

The amount of land betterment charges paid to be taken into account in computation of capital gains tax.

such land at the time of such change of ownership, for the purposes of the computation of the capital gains tax payable by such person under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979).

PART II—BENEFITED AREAS

Government Agents to be land betterment charges officers.

16. The Government Agent of every administrative district shall be the land betterment charges officer of that administrative district for the purpose of this Part of this Law, and accordingly every such Government Agent shall exercise the powers and perform the duties conferred or imposed on a land betterment charges officer under this Part of this Law in relation to each benefited area falling within his administrative district.

Power of land betterment charges officer by order to declare an area to be a benefited area.

17. (1) Where the productivity of the agricultural lands in any area within an administrative district has improved or is likely to improve as the result of the construction of a development project in such area (whether such construction was before or after the appointed date), and where the expenditure incurred in such construction was provided in whole or in part by the State or by a public corporation, the land betterment charges officer for that administrative district may by Order published in the Gazette declare such area to be a " benefited area ".

(2) Every such Order shall specify the limits of the benefited area referred to in that Order and the name of the development project in relation to which such benefited area is declared.

Land betterment charges officer to prepare a register of lands within benefited area.

18. (1) As soon as may be after the publication of an Order under section 17, the land betterment charges officer shall prepare a register of all the agricultural lands situated in the benefited area specified in such Order.

(2) Every register prepared under subsection (1), shall contain the names of all the agricultural lands in the benefited area, the extent thereof, and where any such land is cultivated by the owner thereof, the name of such owner, and, where any such land has been alienated by a permit issued under

the Land Development Ordinance, the name of the permit-holder, and, where any such land is cultivated by a tenant, the name of such tenant, and such other particulars as may be prescribed.

(3) The land betterment charges officer shall classify the lands contained in such register, having regard to the following matters:—

- (a) the capital expenditure incurred in the development project situated in the benefited area and its rate of depreciation;
- (b) the operation, repair and maintenance expenditure on such development project;
- (c) the average availability of water to the land which is the subject of classification, whether for a single cropping, double cropping or more intensive cropping;
- (d) assurance and regularity of irrigation to such land;
- (e) the extent to which such land has benefited;
- (f) the likely increase in the agricultural production of such land as a result of such development project; and
- (g) such other matters as may be prescribed.

19. (1) In respect of the agricultural lands in any benefited area land betterment charges shall be levied on such one or more of the following bases as the Minister may direct:—

Minister to give directions as to how betterment charges are to be computed.

- (a) on the basis of a fixed amount per year per acre of land;
- (b) on the basis of a minimum charge for a fixed quantity of water supplied annually to any such land, and an additional charge for water supplied in excess of such fixed quantity;
- (c) on the basis of the total quantity of water supplied annually to any such land.

(2) For the purposes of paragraph (b) of subsection (1) where several lands are supplied by one irrigation outlet, land betterment charges may be fixed on the basis of a minimum charge for a fixed quantity of water supplied from such outlet, such charges to be divided equally between the lands so supplied, and an additional charge for water supplied in excess of such fixed quantity, such additional charge to be divided *pro rata* between the lands so supplied on the basis of the quantity of water actually supplied in excess of such fixed quantity to each such land.

Computation of annual land betterment charge.

20. The land betterment charges officer shall every year, having regard to any directions issued under section 19, fix a land betterment charge in respect of every land contained in the register prepared under section 18, and he may vary or modify the amount of such land betterment charge if according to the classification prepared under subsection (2) of section 18, such variation or modification is, in his opinion, necessary.

Persons liable to pay land betterment charges under this Part.

21. The land betterment charge fixed in respect of any year, in respect of any land under section 20, shall be payable, where such land is cultivated by the owner thereof, by such owner, where such land has been alienated by a permit issued under the Land Development Ordinance, by the permit-holder, and where such land is cultivated by a tenant, by such tenant, in such number of instalments as the land betterment charges officer in his discretion may determine.

Persons liable to pay land betterment charge under this Part to be informed by notice.

22. (1) The land betterment charges officer shall by notice sent by registered post inform every person liable to pay a land betterment charge under section 21, of the amount payable by such person as land betterment charge, and the number of instalments, if any, such amount is payable in, and demand the payment of the same.

(2) Every notice sent under subsection (1) shall also contain the name of the land in respect of which the land betterment charge is payable, the extent thereof, the year in respect of which such land betterment charge is payable, the name of the person liable to pay such land betterment charge, and the capacity in which he is liable to do so, whether as owner, permit-holder or tenant, the name of the development project in relation to which the benefited area in which

such land is situated has been declared, and the date or dates before which the amount of such land betterment charge or an instalment thereof shall be payable.

(3) Where any person liable to pay a land betterment charge fails to pay the amount of such land betterment charge or where payment in instalments has been allowed, an instalment thereof, on the date specified in a notice sent under subsection (1) for the payment of such amount or such instalment, as the case may be, such person shall be liable to a surcharge of ten *per centum* of such amount or the amount of such instalment, as the case may be.

23. Where the agricultural crops in a benefited area have failed in any year due to adverse weather conditions, the outbreak of pest, disease or like causes, the Minister may by Order published in the Gazette exempt every person liable to pay a land betterment charge in respect of any land within such benefited area, from the payment of the land betterment charge fixed in respect of such land under this Part of this Law for that year.

Power of Minister to exempt persons liable to pay land betterment charges from the payment of the same in certain cases.

24. (1) Where the agricultural crops in any land within a benefited area have been adversely affected in any year, due to any defects in the irrigation works or distributory system supplying such land, the person liable to pay a land betterment charge in respect of such land for that year may appeal to the land betterment charges officer that he be exempted from the payment of such land betterment charge.

Power of land betterment charges officer to exempt in individual cases.

(2) The decision of the land betterment charges officer on any such appeal shall be final and conclusive.

PART III— GENERAL

25. (1) A land betterment charges officer or any person authorized by him may enter and inspect any land within the betterment area or benefited area, for the purposes of obtaining any such information regarding such land as is necessary for the preparation of the statement made under section 5, or the register maintained under section 18, and he may order the owner or person in possession of such land to furnish him with any such information.

Powers of entry and inspection.

(2) Any person who prevents or obstructs a land betterment charges officer or a person authorized by him in carrying out such entry or inspection as is referred to in subsection (1), or who refuses to furnish any such information as is referred to in that subsection when ordered to do so, shall be guilty of an offence and shall, on conviction after trial by a Magistrate, be liable to a fine not exceeding one hundred rupees.

Land betterment charges in respect of land to be levied only under the provisions of either Part I or Part II.

26. (1) Where a land betterment charge is levied in respect of a land under the provisions of Part I of this Law, no land betterment charge shall be levied in respect of such land under the provisions of Part II of this Law, and where a land betterment charge is levied in respect of a land under the provisions of Part II of this Law, no land betterment charge shall be levied in respect of such land under the provisions of Part I of this Law.

(2) Where a land falls within the limits of more than one betterment area or more than one benefited area, only one land betterment charge shall be levied in respect of such land under the provisions of either Part I or Part II of this Law.

Land betterment charges to be paid in addition to other rates and taxes.

27. Where a land betterment charge is payable in respect of any land under the provisions of Part I or Part II of this Law, such land betterment charge shall be payable in addition to any other rates or taxes payable in respect of such land under the provisions of any other law.

Recovery of land betterment charges by seizure and sale.

28. (1) Where any person in receipt of a notice under section 14 (1), section 14 (2) or section 22 (1) fails to pay the amount of land betterment charge a demand for which is made in such notice, within the time allowed for the payment of the same, the land betterment charges officer may issue a certificate to the Primary Court having jurisdiction over the place where the land in respect of which such land betterment charge is payable is situated, containing particulars of the amount due as land betterment charge, and the surcharges, if any, on such amount, and the name of the person liable to pay the same, and the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all and any of the

property, movable and immovable of such person, or such part thereof as he may deem necessary for the recovery of such amount, and the amount of the surcharges, if any, on such amount, and the provisions of the Civil Procedure Code relating to the seizure and sale of property shall, *mutatis mutandis*, apply to such seizure and sale.

(2) Notwithstanding anything to the contrary in any other law as to the limitations of the monetary jurisdiction of a Primary Court, any such Court shall be competent to recover any amount specified in any certificate issued under the provisions of subsection (1).

29. (1) The Minister may from time to time make regulations for the purpose of carrying out and giving effect to the principles and provisions of this Law. Regulations.

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

- (a) the form and manner in which the instruments and registers referred to in this Law are to be maintained; and
- (b) for all matters as are required by this Law to be prescribed.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved, shall be deemed to be rescinded from the date of disapproval, but without prejudice to anything previously done thereunder.

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

Interpretation.

30. In this Law, unless the context otherwise requires:—

" agricultural land " means any land used for the production of any agricultural or horticultural produce;

" land betterment charges officer" in relation to any land means the land betterment charges officer appointed or designated, as the case may be, in relation to the betterment area or the benefited area within which such land is situated;

" Chief Valuer " includes any Senior Assistant Valuer or Assistant Valuer of the Government Valuation Department;

" development project " in relation to—

(a) the provisions of Part I of this Law includes an industrial project, a road project, a salt-water exclusion project, a water supply project and an electrical generating and transmission project; and

(b) the provisions of Part II of this Law includes an irrigation scheme, a drainage scheme and a flood protection scheme;

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

" market value" with reference to any land and any date, means the price which in the opinion of the person making the assessment, that land would have fetched on that date in the open market;

" prescribed" means prescribed by regulation made under this Law;

"public corporation" means any corporation, board or other body established under any written law with capital wholly or partly provided by the Government by way of grant, loan or other form;

" year " means a calendar year.

CHAPTER 16

LAW COMMISSION

Acts
Nos. 3 of 1969,
8 of 1972

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A LAW COMMISSION FOR THE PROMOTION OF THE REFORM OF THE LAW AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

Laws
Nos. 23 of 1977,
11 of 1978:

[29th November, 1969.]

Short title.

1. This Act may be cited as the Law Commission Act.

Establishment and constitution of the Law Commission.

[2, Law 11 of 1978.]

2. (1) For the purposes of this Act, there shall be established a Commission which shall be called the Law Commission, and which shall consist of a Chairman and of not less than ten and not more than fourteen other Commissioners all of whom shall be appointed by the President from among persons appearing to the President to be suitably qualified for such appointment and the majority of whom shall be persons who have held or hold judicial office, or have experience as attorneys-at-law or teachers in law, or are academically qualified in law.

(2) A Commissioner shall, unless he earlier vacates his office, hold office for such period, not exceeding five years, as may be determined by the President at the time of his appointment, and shall be eligible for reappointment;

Provided, however, that if a Commissioner vacates his office prior to the expiration of his term of office, his successor shall, unless he earlier vacates his office, hold office only for the unexpired portion of such term.

(3) A Commissioner may resign his office by writing under his hand addressed to the President.

(4) There shall be paid to the Commissioners for their services such remuneration as may be determined by the Minister, with the prior concurrence of the Minister in charge of the subject of Finance.

Objects of the Law Commission.

3. The objects of the Law Commission shall be to promote the reform of the law and, for the purposes of such promotion, to exercise, discharge and perform the powers, functions and duties conferred and imposed on the Commission by this Act.

4. It shall be the duty of the Law Commission to take and keep under review the law both substantive and procedural, with a view to its systematic development and reform, including in particular the codification of the law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernization of the law, and without prejudice to any action that has been taken or may be taken by Government in that behalf, in particular, the codification of the law in Sinhala, Tamil and English, and for that purpose-

- (a) to receive and consider any proposals for the reform of the law which may be made or referred to them ;
- (b) to prepare and submit to the Minister, from time to time, programmes for the examination of different branches of the law with a view to reform, including recommendations as to the agency (whether the Commission or any other body) by which any such examination should be carried out;
- (c) to undertake, in pursuance of any such recommendations approved by the Minister, the examination of particular branches of the law and the formulation, by means of draft Bills or otherwise, of proposals for reform therein;
- (d) to prepare, from time to time, at the request of the Minister comprehensive programmes of consolidation and statute law revision, and to undertake the preparation of draft Bills in pursuance of any such programme approved by the Minister ;

Functions, &c., of the Law

- (e) to obtain such information as to the legal systems of other countries as appears to the Commission likely to facilitate the achievement of the objects of the Commission ;
- (f) to keep under constant review the exercise by bodies, other than Parliament, of the power to legislate by subsidiary legislation with a view to ensuring that they conform to well-established principles and to the rule of law, that they do not have retrospective effect unless the enabling enactment confers express authority so to provide and that they do not make some unusual or unexpected use of the power conferred by the enactments under which they are made;
- (g) to formulate programmes for rationalising and simplifying legal procedures including procedures of an administrative character connected with litigation ; and
- (h) to formulate programmes for the codification of the law in Sinhala, Tamil and English.

Duty of the Law Commission in regard to legal education.

5. It shall be the duty of the Law Commission in consultation with the Council of Legal Education to review the system of legal education in Sri Lanka and formulate programmes to be submitted to the Minister for the reform and development of legal education in order to bring such education into line with changes in the structure of the law, the practice of the law as a profession, the administration of justice and generally with significant social changes.

Certain matters to be laid before Parliament.

6. The Minister shall lay before Parliament any programmes prepared by the Law Commission under this Act and approved by him, and any proposals for reform formulated by the Commission under this Act in pursuance of such programmes.

The Law Commission to make reports on their proceedings.

7. The Law Commission shall, from time to time, make a report to the Minister on their proceedings during the period to which the report relates, and the Minister shall lay the report before Parliament with such comments, if any, as he thinks fit.

8. The Law Commission may delegate to any Commissioner any of the powers, functions or duties of the Commission under this Act. Power of delegation of the Law Commission.

9. The Law Commission may accept and hold donations, gifts or grants from any source whatsoever, and may dispose of such donations, gifts and grants in such manner as the Commission may deem best calculated to assist in the achievement of the objects of the Commission. Power of the Law Commission to accept, hold, and dispose of, donations, &c.

10. (1) The Law Commission shall have its own Fund which shall be administered by the Commission. Fund of the Law Commission.

(2) There shall be paid into the Fund of the Law Commission all such sums of money as may be received by the Commission by way of donations, gifts or grants from any source whatsoever.

(3) There shall be paid out of the Fund of the Law Commission all such sums of money as are required by the Commission for the purpose of exercising the power of disposition conferred on the Commission by section 9.

11. The Secretary to the Ministry charged with the subject of Justice may make available to the Law Commission all such staff, accommodation, equipment and other facilities as may be necessary to enable the Commission to carry out its work effectively. Staff, &c., of the Law Commission.

12. The expenses of the Law Commission, including the remuneration of the Commissioners, and all other expenses incurred in the working and administration of this Act, shall be defrayed out of moneys provided by Parliament for the purpose. The moneys required to meet such expenses in respect of any financial year of the Government may be included in the estimates for that year of the Ministry of Justice. Expences of the Law Commission.

13. In this Act, unless the context otherwise requires- Interpretation.

" Commissioner " means a Commissioner appointed by the President under this Act :

" Law Commission " means the Law Commission established under this Act :

" Minister " means the Minister in charge of the subject of Justice.

CHAPTER 53

LIGHTING CONTROL

Ordinance
No. 13 of 1939.

AN ORDINANCE TO PROVIDE FOR THE TOTAL OR PARTIAL CESSATION OF LIGHTING IN SRI LANKA ON OCCASIONS OF EMERGENCY OR PUBLIC DANGER OR BY WAY OF EXPERIMENT OR PRACTICE FOR SUCH OCCASIONS.

[17th March, 1939.]

Short title.

1. This Ordinance may be cited as the Lighting Control Ordinance.

provided that such person has taken all other reasonable measures possible to avoid such damage.

Power to make regulations.

2. (1) Whenever the Minister considers that an occasion of emergency or public danger has arisen or is likely to arise, he may make such regulations as he may deem desirable providing by express command, for the total or partial cessation of lighting in any area or place in Sri Lanka specified in such command.

4. Any person who refuses or fails to comply with any such express command 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,

Penalty for refusal or failure to comply with mandatory regulations.

(2) Whenever the Minister considers that it is necessary, by way of experiment or practice for any occasion of emergency or public danger, that there should be a total or partial cessation of lighting, he may make such regulations as he may deem desirable providing, by a request for co-operation, for such cessation of lighting in any area or place in Sri Lanka specified in such request.

5. (1) Every regulation shall be in force for the prescribed period, Operation of regulations.

(2) Where any regulation is in conflict with any other written law, the regulation shall prevail and such written law shall be deemed to be modified by the regulation for the prescribed period during which that regulation is in force:

(3) Where the Minister is satisfied that on any occasion in any area or place in Sri Lanka the response to a request for co-operation made under subsection (2) has been inadequate or that there has been non-compliance with any regulation made under that subsection, he may, on any subsequent occasion, make such regulations as he may deem desirable providing, by express command, for the total or partial cessation of lighting in that area or place by way of experiment or practice for any occasion of emergency or public danger.

Provided that any such written law which is so deemed to be modified by any regulation shall, upon the expiration of such prescribed period, have the same force and effect as if that regulation had not been made.

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

Exoneration from liability of persons complying with regulations.

3. Compliance with any such express command or with any such request for co-operation shall exonerate any person from any liability contractual or otherwise for damage resulting from such compliance,

" prescribed " means prescribed by regulation;

" regulation " means a regulation made by the Minister under section 2.

CHAPTER 519

**LIONS CLUBS—YOUTH EDUCATION, REHABILITATION
AND EMPLOYMENT TRUST**

Act AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND INCORPORATION OF THE LIONS
No. 16 of 1980. CLUBS INTERNATIONAL DISTRICT 306A— YOUTH EDUCATION, REHABILITATION
AND EMPLOYMENT TRUST.

[28th March, 1980.]

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| Short title. | <p>1. This Act may be cited as the Lions Clubs International District 306A—Youth Education, Rehabilitation and Employment Trust (Incorporation) Act.</p> | <p>(d) the Cabinet Treasurer of the District ;</p> <p>(e) four members from the Lion Clubs in the District who shall be appointed by the District Governor of the District; and</p> <p>(f) four members from the Lions Clubs in the District who shall be appointed by the District Governor of the District on the recommendation of the District Cabinet.</p> |
| Establishment and incorporation of the Lions Clubs International District 306A—Youth Education, Rehabilitation and Employment Trust. | <p>2. (1) From and after the date of commencement of this Act, there shall be established a Trust to be called the " Lions Clubs International District 306A—Youth Education, Rehabilitation and Employment Trust" (hereinafter referred to as " the Trust").</p> <p>(2) The Trust 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.</p> | <p>4. The objects for which the Trust is established are hereby declared to be—</p> <p>(a) to provide educational facilities to youth wherever possible;</p> <p>(b) to provide assistance to deserving youth who are under-privileged, incapacitated or handicapped so as to enable them to complete their primary or secondary education;</p> <p>(c) to provide assistance to deserving youth who are under-privileged, incapacitated or handicapped so as to enable them to complete their technical or academic education at a University or at a Technical Institute;</p> <p>(d) to provide all possible assistance locally for rehabilitation of young persons affected by congenital deformities, accidents, illness</p> |
| Board of Trustees of the Trust. | <p>3. (1) The administration, management and control of the Trust shall be vested in a Board of Trustees constituted as hereinafter provided.</p> <p>(2) The Board of Trustees of the Trust (hereinafter referred to as " the Board") shall consist of the following members :—</p> <p>(a) the District Governor of the Lions Clubs International District 306A— Sri Lanka (hereinafter called "the District") who shall be the Chairman of the Board ;</p> <p>(b) the immediate past District Governor of the District;</p> <p>(c) the Cabinet Secretary of the District;</p> | <p>Objects of the Trust-</p> |

LIONS CLUBS— YOUTH EDUCATION, REHABILITATION AND EMPLOYMENT TRUST

causing serious damage to vital organs and any other handicap ;

- (e) to provide special assistance to rehabilitate youth suffering from sight or hearing disorders ;
- (f) to provide assistance possibly in collaboration with Lions Clubs in other parts of the world for the treatment of conditions which require medical or surgical attention outside the country;
- (g) to provide all possible assistance to Governmental agencies for generating employment amongst youth;
- (h) to set up vocational training centres for training youth in vocations which will enable them to find meaningful employment; and
- (i) to provide the necessary management expertise and advice for youth to involve themselves in gainful self-employment.

money and to recall, re-invest and vary such investments at the discretion of the Board and to collect income accruing from such investments;

- (g) erect or cause to be erected any building or structure on any land belonging to or held by the Trust; and
- (h) do all such other acts and things as are incidental or conducive to the carrying out of the objects of the Trust.

6. (1) It shall be lawful for the Board, from time to time, at a general meeting and by a majority of members present and voting '« thereat, to make rules, not inconsistent with the provisions of this Act, for all or any of the following matters :—

Power of the Board to make rules.

- (a) the term of office of the Board, eligibility for and the mode of appointment thereto, the resignation or vacation of office and filling of casual vacancies;
- (b) the powers, conduct, duties and functions of the various officers, agents and servants of the Trust, including their terms and conditions of service;
- (c) the procedure to be observed at, the summoning and holding of, meetings of the Board, the times, places, notice and agenda of such meetings, the quorum thereof and the conduct of business thereat;
- (d) the administration and management of the property of the Trust, the custody of its funds and maintenance and audit of its accounts; and
- (e) generally the management of the affairs of the Trust and the accomplishment of its objects.

Powers of the Trust.

5. The Board shall, in the name of the Trust, have the power to—

- (a) receive grants, gifts or donations in cash or kind whether from local or foreign sources;
- (b) acquire in any manner whatsoever and hold, take or give on lease or hire, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (c) give grants, endowments or scholarships for the furtherance of the objects of the Trust;
- (d) appoint, employ, remunerate and exercise disciplinary control over its officers and servants;
- (e) open, operate and close bank accounts, and to borrow or raise money, with or without security;
- (f) invest funds belonging to the Trust at the discretion of the Board in any such investments as are authorized by law for the investment of trust

**LIONS CLUBS— YOUTH EDUCATION, REHABILITATION
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[Cap. 519]

(2) Any rule made by the Board may be amended or rescinded in like manner as a rule may be made under subsection (1).

with the sanction of the Board, and in the presence of two members of the Board who shall sign the instrument or document in token of their presence.

Seal of the Trust.

7. The seal of the Trust—

- (a) shall be in the custody of such person as the Board may from time to time determine;
- (b) may be altered in such manner as may be determined by the Board; and
- (c) shall not be affixed to any instrument or document except

8. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CUSTOMS ORDINANCE
Arrangement of Sections

1. Short title.

PART I
MANAGEMENT

2. Appointment of officers.

3. Persons employed by Customs deemed officers for such service.

4. Officer taking any fee or reward on account of anything done by him relating to his office shall be dismissed. Penalty for offering fee.

5. Officers of Customs not liable to serve in other local offices.

6. Minister to determine hours of attendance.

6A. Payment for special service or attendance.

6B. Persons to provide accommodation and shelter for officers of Customs.

7. Director-General authorised to administer oaths.

8. Director-General may examine witnesses on oath. False oath deemed false evidence.

8A. How Judge to deal with witness who makes a contradictory statement.

9. Power of Director-General to call for documents or samples of articles.

9A. Service of notice.

9B. Presumption as to documents in certain cases.

9C. Translation in the official language, National language, or English language to be produced.

PART II
LEVYING OF CUSTOMS DUTIES

10. Duties to be levied and power of Parliament to modify duties.

10A. Surcharge to be levied on imported goods, where expedient.

11. Provision for imposition of export duty at varying rates.

12. Prohibitions and restrictions and power of Parliament to add thereto.

13. Goods in warehouse to be liable to the duties imposed by this Ordinance.

14. Goods in warehouse to be liable to increased or new duties.

15. Power to charge warehouse rent.

16. Definition of time of an importation and of an exportation, and of an arrival; and of a departure.

17. Duties to be paid in Sri Lanka currency according to units of measurements for sri lanka produce of customes to be paid into the Treasury.

18. Duties, dues and charges paid in excess to be refunded.

18A. Proceedings for recovery of duties, dues or other charges short levied, before a Magistrate.

19. Power of Minister to exempt Diplomatic personnel from payment of Customs duties subject to certain conditions.

19A. Exemption of goods imported by certain persons from import duties.

20. Imports by President of the Republic exempt from import duties of Customs.
21. Certificate from Naval or Military or Air Force officer required for exemption or payment of rebate.
22. Drawbacks on re-exportation.
- 22A. Importation without payment of duty.

PART III

PORT DUES

23. Port dues.
24. Power of Director-General to summarily enforce payment of dues, rates, buoy rent, charges, and penalties.
25. Composition for dues.
26. Tonnage of ship how ascertained.

PART IV

REGULATIONS INWARDS

27. No goods to be landed nor bulk broken before report.
28. Ship and cargo to be reported within twenty-four hours of arrival of ship. Particulars of report.
29. Master to deliver manifest, and, if required, bill of lading, or copy. Penalty on failure.
30. Officers to board ships may seal or secure goods and open locks. Goods concealed forfeited. If seal broken, master to forfeit one hundred thousand rupees.
31. Officers may be stationed in ships within the limits of any port.
32. Penalty on master not having clearance and if cargo do not correspond with ship's papers, or if goods sent out of vessels be not landed at the appointed places.
33. Goods unshipped from the importing vessel, or landed contrary to the regulations of the Director-General, forfeited. Penalty on persons concerned.
34. Provision with respect to unloading goods, depositing and removing of the same from the warehouse of the Republic, and penalties for failure to remove within prescribed time.
35. No goods to be unladen except during the legal hours and days of business.
36. Cargo in ships of 150 tons to be landed within ten days, and exceeding 150 tons within twenty-five days after arrival of such ship. In default Director-General may land and convey goods to warehouse of the Republic. Duties to be paid within one month, or goods to be sold.
37. Goods in transit and goods trans-shipped allowed without payment of duty.
38. Boat-notes to accompany goods unladen from any ship.
39. Ship's stores.
40. Goods to be landed and examined at the expense of importer.
41. Goods in warehouse must be properly stowed and re-piled.
42. Penalty for neglect or refusal.
43. Prohibitions and restrictions.
44. Goods exported contrary to the prohibitions and restrictions in Schedule B to be forfeited.
45. Repealed.
46. Abatement of duty on damaged goods.

- 47. Importer to deliver bill of entry together with other documents.
- 48. Delivery of goods prior to entry.
- 49. Entry by bill of sight. Perfect entry to be made within three days. In default goods to be sold after one month.
- 50. Entry to agree with manifest. Goods not duly entered forfeited.
- 50A. Action applicable to goods exempted from Customs duties and other dues conditionally.
- 51. Value of goods for the purpose of *ad valorem* duties.
- 51A. When officer in doubt he may call for further information.
- 51B. Importer to keep records for three years.
- 51C. Confidentially to be strictly maintained.
- 52. Forfeiture for non-compliance or false declaration. Forfeiture of value where goods not recoverable.
- 52A. Penalty failing to keep destroying or altering records.

PART V

ENTRY OF GOODS RE-IMPORTED

- 53. Entry of re-imported, goods by bill of stores.
- 54. Bill of store may be issued by the proper officer. Agent to declare name of employer. Consignee to declare who is proprietor. Proprietor to declare to identity and proprietor unchanged. The entry by bill of store to be granted. Conditions for grant of will of store.

PART VI

REMOVAL OF GOODS BY SEA OR INLAND CARRIAGE

- 55. Goods may be removed by land, or from one sea port to another in Sri Lanka.

PART VII

REGULATIONS OUTWARDS

- 56. Ship to be entered and goods cleared before shipment.
- 57. Exporter to deliver bill of entry.
- 58. Exportation prior to the presentation of the bill of entry.
- 59. Boat-notes to accompany goods laden for export.
- 59A. Goods to be examined at expenses of exporter.
- 60. Stiffening order.
- 61. Stores.
- 62. Director-General may grant general sufferance for the shipping of goods.
- 63. Master to deliver content answer questions, and produce bills of lading Certificate of clearance.
- 64. Officers may board vessels after clearance.

PART VIII

TRADE BY VESSELS OF LESS THAN 15 TONS BURTHEN

- 65. No goods to be imported or exported in vessel of less than 15 tons.

PART IX

REGULATIONS COASTWISE

- 66. Coastwise trade.
- 67. What goods shall be carried coastwise.

PART X

REGULATION OF MOVEMENTS OF SHIPS UNDER 250 TONS TONNAGE

- 68. Regulation of movements of ships under 250 tons tonnage.

PART XI

WAREHOUSING OF GOODS

- 69. Power to appoint warehouses for warehousing of goods.
- 70. Warehouse Keeper to give security as required by the Director-General.
- 71. Importer under certain restrictions may warehouse the goods.
- 72. Entry for the warehouse. Particulars. Warrant for warehousing. Bond upon entry of goods for the warehouse.
- 73. Power of lessee of Customs premises in certain cases to cause warehousing entry to be passed for goods.
- 74. Goods warehoused to be marked and numbered Storage of goods warehoused. Penalty. Locking and opening warehouses. Carrying goods to and from warehouses.
- 75. Goods not duly warehoused or fraudulently concealed or removed, forfeited.
- 76. Warehouse keeper neglecting to produce goods deposited, when required, to forfeit one hundred rupees.
- 77. Importer or proprietor clandestinely gaining access to warehoused goods to forfeit one hundred thousand rupees.
- 78. Duty on goods taken out of warehouse without entry to be paid by warehouse keeper. Persons taking out of or destroying goods in warehouse to be deemed guilty of an offence. Importer or consignee defrauded by officers to be indemnified.
- 79. Director-General may remit duties on warehoused, goods lost or destroyed.
- 80. Landing account to be taken of goods for the warehouse. Contents to be marked on packages and in landing book.
- 81. Goods to be entered and duties paid according to landing account.
- 82. Goods to be cleared within two years. Duties to be paid upon deficiencies.
- 83. Goods not cleared or re-warehoused or duties paid on deficiencies after two years to be sold. Proceeds of sale how to be applied. Goods not worth the duty same may be exported or destroyed.
- 84. Goods in warehouse may be repacked. Damaged parts may be destroyed.
- 84A. Processing including manufacture or assembly of goods in warehouses.
- 84B. Manufacturer permitted to sub-contract under certain conditions.
- 85. Entry for exportation re-warehousing or home use.
- 86. Bill of entry for warehoused goods delivered for home use. Duties to be paid according to landing account, except in certain cases when duties are to be charged on ascertained quantity on delivery, unless deficiency has been caused by improper means.
- 87. Value of goods for allowance on deficiencies to be estimated by officers of Customs.

88. Deficiencies on goods exported not to be charged with duty unless fraudulent.
89. On entry outward, bond for due shipment and landing to be given when required.
90. General bond for warehoused goods exported.
91. Minister may close bonded warehouse.
92. Director-General may issue warrants.
93. Goods transferable by endorsement and deliverable to the holders of warrants.
94. Warrants by private warehouse keepers.
95. No goods warehoused in Government or bonded warehouses to be delivered save on surrender of the warrant, and no warrant once surrendered to be reissued.
96. Penalty on infringement of section 95.
97. Stamp duty on warehouse warrants fixed at fifty cents.
98. State when liable to make compensation for loss in any warehouse of the Republic.
99. Goods otherwise liable to Customs laws and regulations.
100. Penalties.
- 100A. Warehousing of duty paid goods and goods of local origin.

PART XII

GENERAL REGULATIONS

101. Regulations.
102. Goods of dangerous quality.
103. Special regulations for ships.
- 103A. Container Freight Stations or Inland Clearing Depots for Customs clearance of cargo.
- 103B. Regulation of the movement of containers, containerised cargo, cargo intended for containerisation and security to be furnished.
104. Transport of goods overland under band.
105. Goods lodged in warehouse of the Republic liable to claims for freight.
106. Bonds to be taken by Director-General.
107. Goods being moved out of any ship or to any ship or out of any warehouse if not duly entered to be forfeited.
- 107A. Regulation of passengers baggage inwards and outwards.
108. Goods in any warehouse to be at risk of the owner.
109. Power to sell goods not cleared within thirty days.
110. Director-General to order removal of goods from one warehouse or Customs premises to another warehouse or place.
111. Government may appoint ports and quays and alter or annul the same. Existing ports to continue.
112. Director-General to appoint wharves.
113. Officers may refuse any person to do any act as master of ship, unless his name is endorsed on registry.
114. When ship's agent may act for master.

115. Director-General to grant licences to Customs House Agents.
- 115A. Importers and exporters to be registered with Customs.
116. No vessel to be hauled on shore without permission. Boat to be removed from wharf when directed Penalty.
117. No timber to be left on wharf for more than one day.
118. Officers may board ships hovering within territorial waters and bring them into port.
119. Making false declaration. Signing false documents and untruly answering questions. Counterfeiting and using false documents.
120. Bond entered into with the Director-General for the due performance of anything relating to the Customs, to be valid in law.
121. Export of Naval, Military, and air stores may be prohibited.
122. Unauthorised persons not permitted to make entries.
123. Samples.
- 123A. Drawing of samples on goods cleared out of Customs control.
124. Director-General may refuse clearance.

PART XIII

SMUGGLING, SEIZURES, AND PROSECUTIONS GENERALLY

125. Smuggling, seizures, and prosecutions generally. Forfeiture of ship to include tackle.
- 125A. Inclusion of prohibited goods in Schedule B of Customs Ordinance.
- 125B. Suspension of certain goods by Customs Authorities.
126. Stoppage, inspection, and search of vehicles suspected to be transporting smuggled goods.
127. Arrest of persons reasonably suspected of an offence under the Ordinance.
- 127A. Persons arrested to be produced before a Magistrate under certain circumstances.
- 127B. Access to persons in custody for purpose of investigations.
- 127C. Power to release on bail to be vested in High Court.
128. Power to enter and search certain premises and seize certain goods and documents.
- 128A. Power to enter for the purpose of audit or examination or records.
129. Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring or having custody of such goods, to forfeit treble the value, or one hundred thousand rupees.
130. Persons concerned in exporting prohibited or restricted goods.
131. Forfeited ships.
132. If goods removed prior to examination, penalty upon parties concerned in the removal.
133. Persons assisting in unshipping or harbouring such goods liable to treble the value or one hundred thousand rupees.
134. How value to be ascertained.
135. Goods, vessels liable to forfeiture may be seized by officers. Persons resisting officers or rescuing or destroying goods to prevent seizure, to forfeit one hundred thousand rupees.
136. Goods stopped or taken by Police Officer.

137. Officers making collusive seizures, or taking bribes, and persons giving bribes, subjected to penalties.
138. Officers may search persons on board or on shore in certain cases.
139. Prohibition against the throwing overboard of goods.
140. Before such search the person may require to be taken before a Magistrate or a superior officer of the Customs.
141. Penalty on officers for misconduct with respect to search.
142. Penalty on persons on board falsely denying having foreign goods about them.
143. Power to fire at vessels failing to bring to when required.
144. Goods not to be passed if incurred penalty is not paid.
145. Recovery of penalties.
146. Persons liable to forfeiture or penalty under any section of the Ordinance to be guilty of an offence.
147. Prosecutions for offences and application of fines.
- 147A. Magistrates to have jurisdiction to impose any punishment prescribed for offences under this Ordinance.
148. Averment of offence.
149. Several persons concerned in the same offence jointly and severally liable to the penalty, and may be sued either by one or by separate informations.
150. Goods not specified in boat-note when found concealed in any boat to be presumed to have been stolen or unlawfully received by tindal and boatmen of such boat.
151. Goods not mentioned in boat-note when found in possession of any tindal or boatmen when on board of boat or on wharves to be presumed to have been stolen.
152. *Onus probandi* to be on the party.
153. Disbursement of forfeitures and penalties recovered under this Ordinance.
- 153A. Purposes to which the Fund may be applied.
154. Seized goods, if unclaimed for a month, to be condemned and dealt with accordingly.
155. Claim to thing seized to be entered in the name of the owner.
156. Notice to be given to officers.
157. Actions to be brought within two months of the cause of them.
158. Officer may tender amends.
159. Judge may certify probable cause of seizure.
160. Repealed.
161. Persons employed for the protection of the revenue to be deemed to be duly employed.
162. Vessels and goods seized and condemned may be disposed of as the Director-General shall direct.
163. Director-General in certain cases may mitigate forfeiture or penalty.
164. Restoration of seized goods, ships.
165. The Minister may restore seizures, and mitigate or remit punishments and penalties.
166. Possession of articles suspected to have been stolen.

166A. Where the offence is concerned with goods, the value of which exceeds five hundred thousand rupees such offence to be deemed a non-bailable offence.

166B. Guidelines for imposing penalty or ordering forfeiture.

PART XIV

INTERPRETATION OF TERMS USED IN THIS ORDINANCE

167. Interpretation.

SCHEDULES

17 of 1869,
1 of 1871,
21 of 1873,
1 of 1875,
22 of 1877,
3 of 1883,
12 of 1884,
4 of 1886,
18 of 1896,
20 of 1898,
13 of 1900,
7 of 1901,
2 of 1903,
9 of 1904,
3 of 1906,
40 of 1908,
5 of 1909,
29 of 1909,
5 of 1910,
9 of 1910,
5 of 1914,
14 of 1914,
21 of 1916,
10 of 1917,
17 of 1922,
3 of 1927,
17 of 1928,
23 of 1929,
6 of 1938,
3 of 1939,

32 of 1941,
54 of 1941,
8 of 1944,
17 of 1946,
43 of 1946,
35 of 1974,
6 of 1948,
9 of 1949,
10 of 1950,
27 of 1951,
29 of 1952,
25 of 1958,
29 of 1966,
34 of 1966,
23 of 1968,
10 of 1983,
83 of 1988,
24 of 1991,
2 of 2003,
36 of 2003,
9 of 2013.

AN ORDINANCE for the general regulation of Customs in Sri Lanka.

[Date of Commencement: *1st January, 1870*]

1. Short title.

This Ordinance may be cited as the Customs Ordinance.

PART I

MANAGEMENT

2. Appointment of officers.

There may be appointed a Director-General of Customs (hereinafter referred to as the "Director-General") and other officers and servants for the management and collection of the Customs, and the performance of all duties connected therewith; on such salaries and allowances as may be provided in that behalf, and there may be required of every person now employed or who shall hereafter be employed in the service of the Customs, such securities for his good conduct as the Minister may deem necessary, and the Director-General shall, throughout Sri Lanka, have the general superintendence of all matters relating to the Customs.

[S 2 am by Sch of Act 83 of 1988.]

3. Persons employed by Customs deemed officers for such services.

Every person employed on any duty or service relating to the Customs within Sri Lanka, by the orders or with the concurrence of the Minister or the Director-General whether previously or subsequently expressed, shall be deemed to be the officer for that duty or service, and every act, matter, or thing required by any law at any time in force to be done or performed by, to, or with any particular officer

nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Minister or the Director-General to act for or in the behalf of such particular officer, shall be deemed to be done or performed by, to, or with such particular officer; and every act, matter, or thing required by any law at any time in force to be done or performed at any particular place within any port, being done or performed at any place within such port appointed by the Minister for such purpose, shall be deemed to be done or performed at the particular place so required.

4. Officer taking any fee or reward on account of anything done by him relating to his office shall be dismissed. Penalty for offering fee.

If any officer or other person acting in any office or employment in or belonging to the Customs shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly from any person (not being a person duly appointed to some office in the Customs) on account of anything done, to be done, or omitted to be done by him in any way relating to his said office or employment, except such as he shall receive under any order or permission of the Minister or Director-General, such officer or other person so offending shall, on proof thereof, be dismissed from his office, and he shall be deemed guilty of an offence, and shall be liable on conviction to a fine not exceeding ten thousand rupees; and if any person, not being a person duly appointed to some office in the Customs, shall give, offer, or promise to give any such fee, perquisite, gratuity, or reward, such person shall for every such offence forfeit a sum not exceeding ten thousand rupees.

[S 4 am by s 2 of Act 83 of 1988.]

5. Officers of Customs not liable to serve in other local offices.

No officer of Customs, nor person employed in the collection or management of or accounting for the revenue of Customs, or any part thereof, nor any other person acting under him, shall, during the time of his acting as such officer, or of his being so employed as aforesaid, be compelled to serve in any other public office or employment or to serve on any jury or inquest, any law, usage, or Custom to the contrary notwithstanding.

6. Minister to determine hours of attendance.

(1) It shall be lawful for the Minister to determine in consultation with the Minister in charge of the subject of Public Administration the hours of general attendance and hours of special attendance of officers of Customs and other persons employed in the service of Customs at their proper offices and places of employment.

(2) The Director-General shall determine the proper offices and places of employment of officers of Customs and such other persons referred to in subsection (1):

Provided however that within a specified Port, as defined in the Sri Lanka Ports Authority Act, No. 51 of 1979, or an airport, proper offices and places of employment of officers of Customs and such other persons referred to in subsection (1) shall be determined by the Director-General in consultation with the authority in charge of such port or airport.

[S 6 subs by s 3 of Act 83 of 1988.]

6A. Payment for special service or attendance.

Where any person requires—

- (a) any service which is determined by the Minister as a special service; or
- (b) the attendance of any officer of Customs at any office or place other than his proper office or place of employment,

payment shall be made for such service or attendance, as the case may be, to the Director-General by such person at such rates as may be specified by the Director-General.

[S 6A ins by s 4 of Act 83 of 1988.]

6B. Persons to provide accommodation and shelter for officers of Customs.

Notwithstanding anything in any other law, it shall be the duty of every authority of any Port or of every person in charge of any place or warehouse which requires the attendance or services of officers of Customs or any person employed in the service of Customs, to provide suitable shelter

and accommodation in such Port, warehouse or place, as the case may be, for the use of the Customs.

[S 6B ins by s 4 of Act 83 of 1988.]

7. Director-General authorised to administer oaths.

In all cases wherein proof on oath shall be required by any law, or shall be necessary in any matter relating to the Customs, the same may be made before the Director-General or other principal officer of Customs, or before the persons acting for them respectively, who are hereby authorised and empowered to administer the same.

8. Director-General may examine witnesses on oath. False oath deemed false evidence.

(1) Upon examinations and inquiries made by the Director-General, or other principal officer of the Customs, or other persons appointed to make such examinations and inquiries, for ascertaining the truth of statements made relative to the Customs, or the conduct of officers or persons employed therein, any person examined before him or them as a witness shall deliver his testimony on oath, to be administered by such Director-General or other principal officer, or such other persons as shall examine any such witness, who are hereby authorised to administer such oath; and if such person shall be convicted of giving false evidence on his examination on oath before such Director-General or other principal officer of Customs, or such other person in conformity to the directions of this Ordinance, every such person so convicted as aforesaid shall be deemed guilty of the offence of giving false evidence in a judicial proceeding, and shall be liable to the fines and penalties to which persons are liable for intentionally giving false evidence in a judicial proceeding.

(2) A person making an inquiry under subsection (1) may summon as a witness any other person whose evidence is necessary for the purposes of the inquiry; and a person who is summoned under this subsection shall, if he does not comply with the summons or refuses to be sworn or affirmed or to give evidence, be guilty of an offence of and liable to a fine not exceeding twenty five thousand rupees.

[S 8(2) am by s 5 of Act 83 1988.]

8A. How Judge to deal with witness who makes a contradictory statement.

(1) If in the course of a trial for an offence under this Ordinance any witness shall on any material point contradict either expressly or by necessary implication a statement previously made and signed by him, before any officer of Customs or person referred to in section 8, in the course of any investigation into such offence under this Ordinance, it shall be lawful for the presiding Judge if he considers it safe and just in all the circumstances—

- (a) to act upon the statement given by the witness in the course of the investigation, if such statement is corroborated in material particulars by evidence from an independent source; and
- (b) to have such witness at the conclusion of such trial arraigned and tried on an indictment which shall be prepared and signed by the Registrar of such court, for intentionally, giving false evidence in a stage of a judicial proceeding.

(2) At any trial under paragraph (b) of subsection (1) it shall be sufficient to prove that the accused made the contradictory statements alleged in the indictment and it shall not be necessary to prove which of such statements is false.

(3) The presiding Judge may, if he considers it expedient, adjourn the trial of any witness under paragraph (b) of subsection (1) for such period as he may think fit and in any such case the accused shall be remanded until the conclusion of such trial.

[S 8A ins by s 6 of Act 83 of 1988.]

9. Power of Director-General to call for documents or samples of articles.

(1) The Director-General or any officer of Customs authorised in that behalf by him may for the purpose of ascertaining or verifying any matter relative to the Customs or with regard to any matter into which it is his duty to inquire under this Ordinance, by written order require any person to give information or produce for examination such books and documents or samples of any article with regard to any matter relative to the Customs or the subject of inquiry which are in such person's power to give or produce at such place and within such period as may be specified in such order and

allow such officer to examine, take extracts and copies of such books, documents and samples of articles, as the case may be.

(2) Any person who is required, for purposes of this section, to answer any question put to him by any officer of Customs, or to give any information which may be required of him by such officer and which it is in his power to give and who—

- (a) refuses to answer such question;
- (b) wilfully makes a thereto false answer;
- (c) refuses to give such information;
- (d) furnishes any information which he knows or has reason to believe to be false; or
- (e) without reasonable cause fails to comply with any order issued under subsection (1),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty five thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[S 9 subs by s 7 of Act 83 of 1988.]

9A. Service of notice.

Any notice, order or other document required to be served on any person under this Ordinance or any regulations made there under may be served by post under registered cover, and if so served, shall be (deemed) to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the notice, order or other document was properly addressed and put into the post.

[S 9A ins by s 8 of Act 83 of 1988.]

9B. Presumption as to documents in certain cases.

When a document which appears to have been made in the ordinary course of business having regard to the nature of such business and is not otherwise open to suspicion by reason of alterations or other circumstances—

- (i) is produced by any person or has been seized from the custody or control of any person, under this Ordinance; or
- (ii) has been received from any place outside Sri Lanka in the course of investigation of any offence alleged to have been committed by any person under this Ordinance,

and such document is tendered in evidence, the court shall, unless the contrary is proved—

- (a) presume, that the signature and every other part of such document which purports to be in the hand writing of any particular person or which the court may reasonably assume to have been signed by, or to be in the hand writing of any particular person, is in the handwriting of that person and in the case of a document executed or attested, that it was executed or attested, by the person by whom it purports to have been executed or attested; and
- (b) as regards a document referred to in paragraph (i), presume the truth of the contents of such documents.

[S 9B ins by s 8 of Act 83 of 1988.]

9C. Translation in the official language, National language, or English language to be produced.

(1) Where any document required for the purpose of this Ordinance is written in a language other than the official language, National language or the English language, the person producing or using such document may be required to produce therewith a correct translation thereof in the official language, National language or the English language.

To produce copies of documents as required.

(2) Where any person is required to produce any document for the purposes of this Ordinance, the Customs officer may require such person to produce as many copies thereof as the Customs officer may deem necessary for the purposes of this Ordinance.

(3) Where a Customs officer requires any invoice and/or any other document to be produced for any goods which have been imported, exported, entered for export or entered in transit, he may require such invoice and/or document to be submitted in original and may require him to submit as many copies thereof as may be necessary for the purposes of this Ordinance and he may retain such copies.

[S 9C ins by s 8 of Act 83 of 1988.]

PART II

LEVYING OF CUSTOMS DUTIES

10. Duties to be levied and power of Parliament to modify duties.

(1) The several duties of Customs, as the same are respectively inserted, described, and set forth in figures in the table of duties (Schedule A)¹ shall be levied and paid upon all goods, wares, and merchandise imported into or exported from Sri Lanka: Provided that—

(a) Parliament may from time to time, by means of a resolution duly passed at any public session, increase, reduce, abolish, or otherwise alter the Customs duty leviable on any goods imported into or exported from Sri Lanka or into or from any specified port therein, or subject to such terms or conditions, if any, as may be expressed in the said resolution, may impose Customs duty upon any goods so imported or exported whereon Customs duty at the time when such resolution is passed is not leviable, or may add other goods to the goods enumerated in the said Schedule as exempt from Customs duty; or may add to, rescind, or vary any of the conditions, exceptions, or provisions of the said Schedule with regard to the payment of Customs duty; or may amend or alter the provisions of the said Schedule by the deletion of references to goods stated therein to be exempt from import duty, or by specifying that goods of any class or description shall, subject to such terms and conditions as may be expressed in the resolution, be exempt from export duty, or by adding to, deleting from or in any manner varying the classification or description of goods specified in the said Schedule or any provision contained therein relating to any such goods, whether or not the duty on such goods is varied, imposed or abolished by the resolution;

(b) no such resolution shall take effect unless it shall have been notified in the *Gazette*;

(c) express reference in the said Schedule to any Customs duty leviable on any goods imported into or exported from Sri Lanka shall not affect or be deemed to affect any royalty, cess or duty, by whatsoever name called, which is leviable or payable on the importation or exportation of such goods under any written law other than this Ordinance.

[S 10 re-numbered as s 10(1) by Sch of Act 10 of 1983.]

(1A) Where there is a dispute relating to the imposition or exemption of customs duty on any goods, any condition or exception to the payment of customs duty on any goods or clarification or description of the goods, imported into or exported from Sri Lanka, the importer or exporter of such goods as the case may be may make an application forthwith to the Director-General for determination.

[S 10(1A) ins by s 2 of Act 9 of 2013.]

(1B) The Director-General shall, within ninety days from the date of receipt of such application determine any application made to him under subsection (1A).

[S 10(1B) ins by s 2 of Act 9 of 2013.]

(1C) —

(a) Where the Director-General fails to intimate the determination within the time period specified in subsection (1B) to the importer or exporter as the case may be; or

(b) Any person who is aggrieved by such determination,

may, within thirty days from the expiration of the time period specified in subsection (1B) or from the date of receipt of such determination as the case may be, appeal to the Tax Appeals Commission established under the provisions of the Tax Appeals Commission Act, No. 23 of 2011.

[S 10(1C) ins by s 2 of Act 9 of 2013.]

(2) every duty altered or imposed on the basis of any measurement unit under the proviso to subsection (1), shall be according to the Inter National System of Units as defined in section 5 of the Weights and Measures Ordinance.

[S 10(2) ins by Sch of Act 10 of 1983.]

10A. Surcharge to be levied on imported goods, where expedient.

(1) In addition to any duties leviable under this Ordinance, the Minister may, with the approval of the Cabinet of Ministers, by Order published in the *Gazette*, levy a surcharge on the Customs duty payable on such imported goods as are specified in such Order, at such rates and for such periods as are specified in such Order, if he deems it expedient in the interest of the National economy to do so.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall, as soon as may be after its publication in the *Gazette* be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within sixty days of the publication of such Order in the *Gazette*, and in the computation of such period of sixty days no account shall be taken of any period during which Parliament stands prorogued or dissolved. Where any such Order is revoked any sum paid in pursuance of such order shall be refunded.

[S 10A ins by s 9 of Act 83 of 1988.]

11. Provision for imposition of export duty at varying rates.

(1) Any resolution under section 10 imposing export duty—

(a) may impose upon any goods duty at rates varying in accordance with fluctuations in the world market price of the goods; and

(b) may provide for the estimation from time to time by the Director-General of the amount which shall be deemed for the purposes of the application of the resolution, to be the world market price of the goods to which it applies.

[S 11(1) subs by s 3(1) of Law 35 of 1974.]

(2) Where in terms of subsection (1) of this section export duty on any goods is imposed by any resolution at rates differing in accordance with fluctuations in the world market price of the goods, the following provisions shall have effect in relation to contracts for the exportation of such goods entered into by a seller in Sri Lanka (hereinafter referred to as "the exporter") and a buyer overseas:

(a) the exporter may make application to the Director-General for the registration of the contract, specifying in the application—

(i) the total quantity of the goods covered by the contract;

(ii) the period within which the goods are required by the terms of the contract to be exported (hereinafter referred to as the "proposed period of exportation"); and

(iii) such other particulars as the Director-General may require;

(b) any such contract may be registered by the Director-General subject, however, to the provisions of subsections (3) and (4);

(c) where any such contract is registered, then notwithstanding anything in the resolution imposing export duty upon such goods,

export duty shall be charged, levied and paid, on all goods proved to the satisfaction of the Director-General to be exported during the proposed period of exportation in fulfillment of the contract, at the rate which would have been applicable if the goods had been exported on the date of the application for the registration of the contract.

[S 11(2) subs by s 3(1) of Law 35 of 1974.]

(3) No contract shall be registered as provided in subsection (2), if the proposed period of exportation of the goods to which the contract relates is a period ending later than six months after the date of the application for registration of the contract:

Provided that the aforesaid term of six months may, by regulation made under subsection (12), be increased or reduced whether in relation to contracts generally or to contracts of any specified description.

(4) No contract shall be registered as provided in subsection (2) unless the exporter under that contract, either—

(a) deposits with the Director-General a sum of money equal to one-fourth of the amount which would be payable as export duty upon the total quantity of goods covered by the contract if such total quantity were being exported on the date of the application for the registration of the contract; or

(b) the exporter has furnished to the Director-General a bond in such form, and executed by any such bank, as may be approved by the Director-General, whereby the bank undertakes to pay to the Director-General on demand any sum which may be declared by order of the Director-General under subsection (5) to be payable by the bank in relation to that contract, so however that the maximum sum so undertaken to be paid shall be one-fourth of the amount which would be payable as export duty upon the total quantity of goods covered by the contract, if such total quantity were being exported on the date of the application for the registration of the contract.

(5) In any case where a contract has been registered as provided in subsection (2) and it is found on the date of the expiration of the proposed period of exportation that the contract remains wholly or partly unfulfilled, then, if the lowest rate of duty which prevailed during the proposed period of exportation under the resolution passed in terms of subsection (1) (hereinafter referred to as the "new rate") is lower than the rate which prevailed thereunder on the date of the application for the registration of the contract (hereinafter referred to as the "old rate")—

(a) the Director-General shall make an assessment of the amount which would have been payable as export duty at the old rate on the quantity of the goods in respect of which the contract remains unfulfilled and an assessment of the amount which would be payable as export duty at the new rate on the said quantity; and

(b) the Director-General shall make order declaring that a sum representing the difference between the two amounts so assessed shall be made good out of the deposit made by the exporter under subsection (4) in respect of the contract, or, as the case may be, be paid by the bank by which the bond was executed in terms of that subsection in respect of the contract.

If the sum ordered to be paid under the preceding provisions of this subsection in respect of any contract shall exceed the total sum deposited under subsection (4) in respect of that contract or, as the case may be, the total sum specified in the bond executed in terms of that subsection in respect of that contract, the Director-General shall make further order declaring that the sum representing the difference between the amount so ordered to be paid, and the amount furnished as deposit or for the payment of which the exporter has furnished to the Director-General a bond executed in terms of the same subsection shall be paid by the exporter within the period stipulated in that order; and it shall be lawful for the officers of Customs to refuse to pass any goods belonging to the exporter until the said sum is paid.

Upon an order being made by the Director-General under this subsection declaring that any sum shall be paid by a bank, the bank shall be bound forthwith on demand made by the Director-General to pay such sum to the Director-General.

[S 11(5) subs by s 3(2) of Law 35 of 1974.]

(6) In any case where the Director-General is satisfied that any contract registered under this section remains wholly or partly unfulfilled owing to causes beyond the control of the exporter, then notwithstanding anything in the preceding provisions of this section the Director-General may in his discretion—

(a) extend the proposed period of exportation and direct that such extended period shall be deemed for the purposes of paragraph (c) of subsection (2) and of subsections (5) and (10) to be the proposed period of exportation; or

(b) make order directing that the provisions of subsection (5) shall not apply in relation to the contract; or

(c) make order directing that for the purposes of subsection (5) the contract shall be deemed to remain unfulfilled only in relation to such part of the total quantity of goods covered by the contract as may be specified in the order.

(7) All sums ordered under subsection (5) to be made good out of any deposit and all sums paid by any bank in compliance with an order under subsection (5) shall be paid into the Consolidated Fund.

(8) In any case where a contract has been registered under the preceding provisions of this section, it shall be the duty of the exporter, whenever any goods are being exported in fulfillment of the contract,

to make a declaration to that effect in the bill of entry relating to the goods and in the specification furnished in respect of the shipment of such goods; and—

(a) where no goods have been so declared by the exporter to be goods exported in fulfillment of the contract, the Director-General shall, for the purposes of subsection (5) be entitled to presume, unless the contrary is proved to his satisfaction, that the contract remains wholly unfulfilled; or

(b) where the quantity of goods so declared by the exporter to be goods exported in fulfillment of the contract is less than the total quantity covered by the contract, the Director-General shall, for the purposes of subsection (5), be entitled to presume, unless the contrary is proved to his satisfaction, that the contract remains unfulfilled in respect of the outstanding part of such total quantity.

(9) The Minister may by order provide for the payment of interest on deposits made under this section, at such rate, and in such circumstances, and subject to such conditions, as may be specified in the order.

(10) The amount of any deposit made under subsection (4) by any exporter in respect of any contract shall, subject to the operation of any order made under subsection (5), be returned to the exporter as soon as convenient after the exportation in fulfillment of the contract of the total quantity of goods covered thereby or the expiration of the proposed period of exportation, whichever time is the earlier:

Provided, however, that the Director-General may in his discretion make order directing the return of any part of any such deposit at any time after the contract has been substantially fulfilled.

(11) No sum constituting or forming part of any deposit made under subsection (4) by any exporter shall be liable at any time to be seized or sequestered in execution of any decree or order of any court, if the Director-General certifies that the exporter is not at that time entitled to the return of that sum under subsection (10) of this section.

(12) The Minister may make such regulations as he may consider necessary for carrying into effect the preceding provisions of this section.

(13) In each of the preceding subsections—

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["Director-General" omitted by s 3 of Law 35 of 1974.]

"the date of the application for registration of the contract" means the date on which the application for registration is received by the Director-General.

(14) .

[S 11(14) rep by s 3(4) of Law 35 of 1974.]

(15) .

[S 11(15) rep by s 3(4) of Law 35 of 1974.]

12. Prohibitions and restrictions and power of Parliament to add thereto.

(1) The goods enumerated in the table of prohibitions and restrictions in Schedule B2 shall not be imported or brought into or exported or taken out of Sri Lanka save in accordance with the conditions expressed in the said Schedule.

(2) Parliament may from time to time, by means of a resolution duly passed at any public session, amend Schedule B2 by the addition thereto of any goods other than those enumerated therein or by the omission therefrom of any goods enumerated therein or otherwise, and regulate the conditions subject to which the importation or bringing into or the exportation or taking out of Sri Lanka of any goods enumerated in the said Schedule² is prohibited or restricted.

13. Goods in warehouse to be liable to the duties imposed by this Ordinance.

All goods whatsoever which shall have been warehoused without payment of duty upon the first importation thereof, and which shall be in the warehouse when this Ordinance comes into force, shall become liable to the duties imposed by this Ordinance, in lieu of all former duties.

14. Goods in warehouse to be liable to increased or new duties.

When any variation is made in any of the provisions of Schedule A2, whether by the amendment of this Ordinance or by the exercise of any power given by this Ordinance or any other enactment, any goods that shall have been warehoused without payment of duty upon the first importation thereof, and which shall be in the warehouse at the time when the said variation comes into force, shall be subject to duty or exempt from duty, as the case may be, in accordance with the said variation.

15. Power to charge warehouse rent.

On all goods lodged in any warehouse of the Republic, warehouse, or place of deposit provided by Government, it shall be lawful for the Director-General to charge, demand, and receive warehouse rent for all such time as the same shall remain in such warehouse, at such rates and under such regulations as may from time to time be fixed by the Minister, as warehouse rent payable on goods so lodged, and no goods upon which warehouse rent may be due shall be removed until the same be paid.

16. Definition of time of an importation and of an exportation, and of an arrival and of a departure.

If upon the first levying or repealing of any duty, or upon the first permitting or prohibiting of any importation or whether inwards, outwards, or exportation; coastwise in Sri Lanka, it shall become necessary to determine the precise time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such time, in respect of importation, shall be deemed to be the time at which the ship importing such goods had actually come within the limits of the port at which such ship shall in due course be reported and such goods be discharged; and such time, in respect of exportation, shall be deemed to be the time at which the goods had been shipped on board the ship in which they had been exported; and if such question shall arise upon the arrival or departure of any ship, in respect of any charge or allowance upon such ship, exclusive of any cargo, the time of such arrival shall be deemed to be the time at which the report of such ship shall have been or ought to have been made; and the time of such departure shall be deemed to be the time of the last clearance of such ship with the Director-General for the voyage upon which ship had departed.

17. Duties to be paid in Sri Lanka currency according to units of measurements for sri lanka produce of customes to be paid into the Treasury.

(1) All duties of Customes, as well as all penalties and forfeitures incurred under this Ordinance, shall be paid and received in the currency of the Republic of Sri Lanka and according to the units of measurement of the Republic.

[S 17(1) subs by s 10 of Act 83 of 1988.]

(2) Conversion of foreign currency values of the Republic.

For the purpose of subsection (1) conversion of foreign currency values to the currency values of the Republic of Sri Lanka shall be made in accordance with such rates of exchange determined by the Director-General and published in the *Gazette*, as were prevailing on the date of presentation of the bill of entry relating to the goods on which the duty is payable.

[S 17(2) subs by s 2 of Act 24 of 1991.]

(3) Produce of Customs duties to be paid into the Consolidated Fund.

The produce of all duties of Customs shall be paid by the Director-General into the Consolidated Fund of the Republic of Sri Lanka.

[S 17(3) subs by s 10 of Act 83 of 1988.]

18. Duties, dues and charges paid in excess to be refunded.

(1) If it is proved to the satisfaction of the Director-General by any claim duly made in writing that any person has paid on goods imported or exported by him, any duties, dues or charges in excess of the amount with which he was properly chargeable thereon, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within twenty-four months from the date of such payment.

(2) When any duties, dues or charges on any goods, imported or exported, have been short levied or where any such duties, dues or charges after having been levied, have been erroneously refunded, the persons chargeable with the duties, dues or charges so short levied or to whom such refund has erroneously been made shall pay the deficiency or repay the amount so erroneously refunded, if the payment of the amount short levied or erroneously refunded shall be demanded within twenty- four months from the date of such short levy or refund.

(3) If the amount so demanded to be paid in terms of subsection (2) is not paid by the person from whom the payment is demanded by the Director-General, it shall be lawful for the officers of Customs to refuse to pass any goods which that person imports or brings into or is seeking to export or take out of Sri Lanka until that amount is paid.

[S 18 subs by s 4 of Law 35 of 1974; s 18(3) proviso rep by s 11 of Act 83 of 1988.]

18A. Proceedings for recovery of duties, dues or other charges short levied before a Magistrate.

(1) Where the Director-General is of opinion in any case that recovery under section 18, of any duties, dues or other charges omitted to be levied, short levied, erroneously refunded or rebated or paid on a fraudulent claim, is impracticable or index pediment, he may issue a certificate containing particulars of such duties, dues or other charges as contained in the demand under subsection (2) of section 18, and the name and last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the duties, dues or other charges should not be taken against him, and in default of sufficient cause being shown, such duties, dues or other charges 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, No. 15 of 1979, 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 Director-General for the purposes 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 be read and construed as authorising a Magistrate to consider, or decide, the correctness of any statement in such certificate.

(3) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

(4) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of that fine or direct payment of that amount to be made in installments.

(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 under subsection (4) for the payment of the fine; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(6) Where a Magistrate directs under subsection (4), that a payment be made in installments and default is made in the payment of any one installment, proceedings may be taken as if default had been made in payment of all the installments then remaining unpaid.

(7) In any proceedings under subsection (1), the Director-General's certificate shall be sufficient evidence that the duties, dues or other charges are in default, and any plea that such duties, dues or other charges are incorrect shall not be entertained.

[S 18A ins by s 12 of Act 83 of 1988.]

19. Power of Minister to exempt Diplomatic personnel from payment of Customs duties subject to certain conditions.

(1) The Minister may from time to time, by Order published in the *Gazette*, exempt goods consigned to, or imported or cleared out of bond by or for the use of the representative in Sri Lanka (by whatsoever

name, title or designation called) of the Government of any foreign State, the Trade Commissioner in Sri Lanka of any such Government, and persons on the staff of any such representative or Commissioner named in such Order and the representatives of the United Nations or its affiliates and such other inter-national organisations, institutions or bodies from payment of Customs duty.

(2) The Minister may, in his discretion, by such Order—

(a) prescribe the conditions, if any, subject to which the exemption is allowed;

(b) extend such exemption to goods consigned to, or imported by or for the use of the families and suites of such officers;

(c) limit the exemption to a grade or class of persons referred to in subsection (1) of any specified country or organisation and to articles of any specified description.

(3) Any Order under the preceding provisions of this section shall, if so expressed be deemed to have had effect from such date prior to the making of the order as may be specified therein.

(4) The Minister may at his discretion, by Order published in the *Gazette*, withdraw or modify any exemption granted under this section, or vary the conditions subject to which the exemption is allowed.

(5) No Order made under this section shall have effect unless it has been approved by Parliament, by resolution.

(6) Notwithstanding anything in any Order under the preceding provisions of this section, no goods to which such Order applies may be sold or otherwise disposed of, without the prior permission of the Director-General and unless the duties payable on such goods as determined in accordance with the value of such goods and rates of duty applicable at the time of such sale or disposal, are paid to the Director-General. Any goods sold or disposed of in contravention of the preceding provisions of this subsection shall be liable to be forfeited.

[S 19 subs by s 13 of Act 83 of 1988.]

19A. Exemption of goods imported by certain persons from import duties.

(1) The Minister may, if he deems it expedient in the public interest so to do, by Order exempt any goods imported by, or consigned to, any person specified in the Order from the whole or any part of the duties of Customs leviable thereon, subject to such conditions (to be fulfilled before or after clearance) as may be specified in the Order.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall, as soon as may be after its publication in the *Gazette*, be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within sixty days of the publication of such Order in the *Gazette*, and in the computation of such period of sixty days no account shall be taken of any period during which Parliament stands prorogued or dissolved. Where any such Order is so revoked, the duties of Customs payable on the exempted goods shall be paid by the importer of such goods or the person to whom such goods were consigned, to the Director-General of Customs, and such duties may be recovered under the provisions of section 145.

(3) Where any goods specified in an Order made under subsection (1) are subsequently sold or disposed of contrary to the conditions of such Order, such goods shall be liable to the same duty of Customs as may by law be levied on like goods which are subject to duties of Customs and the importer or person by whom or on whose behalf the goods are sold or disposed of shall prior to such sale or disposal obtain the permission of the Director-General of Customs and pay the duties payable on such goods at the time of such sale or disposal to the Director-General. Any goods sold or disposed of in contravention of such section shall be liable to be forfeited.

[S 19A ins by s 6 of Law 35 of 1974.]

20. Imports by President of the Republic exempt from import duties of Customs.

Articles of every description imported or bearded from bond for the official use of the President of the Republic of Sri Lanka shall not be liable to the payment of import duties.

[S 20 subs by s 14 of Act 83 of 1988.]

21. Certificate from Naval or Military or Air Force officer required for exemption or payment of rebate.

(1) Upon the production of a certificate from such Naval, Military, or Air Force officer, or such other person as the Minister may from time to time authorise by notification in the *Gazette* to issue the same, the Director-General of Customs shall pass free from duty the articles hereinbefore exempted, or, in the event of the duty having been paid, he shall, subject to the provisions of subsection (2), allow a rebate of such duty:

Provided that if such articles are not required for the use for which they were imported or purchased or exported as aforesaid, no such articles may be sold or otherwise disposed of without the prior permission of the Director-General and unless the duties payable on such articles at the time of such sale or disposal are paid to the Director-General; and any articles sold or disposed of in contravention of the preceding provisions of this proviso shall be liable to be forfeited.

[S 21(1) proviso subs by s 7 of Law 35 of 1974.]

(2) The Director-General of Customs shall allow a rebate of the duty paid on any article hereinbefore exempted, upon the production of a certificate relating to that article in accordance with the provisions of subsection (1) and upon proof to his satisfaction of the fact that such article was actually imported, exported, purchased or procured, as the case may be, and of such particulars as he may require in regard to the amount of duty paid and the time and place of payment of such duty:

Provided that no such rebate shall be allowed in the case of any article unless the certificate relating to that article is produced within twelve months next after the date on which that article was imported, exported, purchased or procured, as the case may be;

Provided further that the Director-General of Customs may refuse to allow a rebate of the duty paid on any article if he is satisfied, after such inquiry as he may deem necessary, that a rebate of the duty paid on that article has previously been allowed in accordance with the provisions of this section.

(3) The rebate shall be paid to the person issuing the certificate required by this section out of the duties received by the Director-General of Customs, anything in section 18 to the contrary notwithstanding.

(4) The certificate required by this section shall be in such form as the Director-General of Customs shall from time to time prescribe.

22. Drawbacks on re-exportation.

(1) Where any goods capable of being easily identified which have been imported from any foreign port, and upon which Customs duties have been paid, are re-exported to any foreign port, a sum not exceeding nine tenths of such duties may, be repaid as drawback:

Provided that in every such case—

(a) the goods are identified to the satisfaction of the Director-General, or such other officer authorised in that behalf;

(b) there has been no change of ownership of the goods;

(c) the re-export must be made within one year from the date of importation as shown by the records of the Customs office, unless such period is specially extended by the Director-General, if he considers that the re-export was prevented due to circumstances beyond the control of the importer;

(d) no drawback will be allowed on goods (other than goods imported through the post by any person for his personal use) on which the import duty paid does not exceed one hundred rupees;

(e) the claim for drawback must be established at the time of re-export, and payment must be demanded within six months from the date of entry for shipment;

(f) when a drawback is allowed on the re-export of goods imported the amount so allowed as drawback shall not exceed nine tenths of the duty paid or payable at the time of importation thereof, notwithstanding the variation in the rates of duty or the rates of exchange.

[S 22(1) subs by s 15 of Act 83 of 1988.]

(2) Save as hereinafter provided; this section shall not apply to goods which have been used after importation.

[S 22(2) ins by s 3 of Act 24 of 1991.]

(3) Where however, the Customs duties have not been paid, the Director-General may, if he is satisfied that the conditions specified in paragraphs (a), (b) and (c) of subsection (1) have been

complied with, permit the re-export of such goods on payment of one tenth of the duty that would have been payable at the time of import.

[S 22(2) subs by s 15 of Act 83 of 1988; re-numbered as s 22(3) by s 3 of Act 24 of 1991.]

22A. Importation without payment of duty.

(1) The Director-General or such other officer authorised in that behalf shall and subject to such terms and conditions as may be prescribed by the Minister from time to time allow importation of articles which are intended to be re-exported without payment of import duty.

(2) Where goods manufactured or processed in Sri Lanka containing as a part or in gradient thereof any material imported and upon which import duty has been paid or secured are exported, refund or rebate of the whole or part of the import duty actually paid or secured in respect of such quantity of the raw material or articles as may appear to the satisfaction of the Director-General to have been used in the manufacture or processing of the goods shall be allowed upon such terms, and subject to such conditions, as may be prescribed by the Minister.

(3) The provisions of subsection (2) shall apply only to such goods as may from time to time be prescribed by the Minister by Notification to be published in the *Gazette* having regard to the economic development of the country.

(4) Drawback or rebate of the duty paid or secured in the case of plant, machinery and equipment imported for use in projects and ventures approved by the Minister, having regard to the economic development of the country and subject to such terms and conditions shall be allowed, on re-export, by the Minister at such rates as he may prescribe, having regard to the duration of use, depreciation in value and such other circumstances relating to such plant, machinery or equipment.

(5) Drawback of export duties.

Where any class or description of goods manufactured or produced in Sri Lanka are exported to any place outside Sri Lanka and are thereafter re-imported, a drawback of the export duties of Customs paid at the time of export under this Ordinance shall be allowed in full or part in respect of such goods upon such terms and conditions as may be prescribed by the Minister having regard to the period within which such goods are re-imported.

(6) Penalty for fraudulent claims.

Every person concerned in making any fraudulent claim for drawback or rebate of duty shall at the election of the Director-General be liable to a penalty not exceeding one hundred thousand rupees or three times the value of such goods on which such claim is made.

[S 22A ins by s 16 of Act 83 of 1988.]

PART III

PORT DUES

23. Port dues.

(1) Port dues shall be leviable and payable for entry inwards, and for clearance outwards, on all ships arriving at or departing from any port of Ceylon, and upon cargo imported to or exported from Colombo, according to the table of port dues set forth in figures in Schedule C:

Provided that—

(a) when a vessel has paid port dues inwards or outwards she shall not be liable for additional port dues for goods carried coastwise during the same voyage;

(b) a vessel leaving port for a period not exceeding twelve hours for the purpose of trying her machinery or of throwing overboard any damaged cargo shall, for the purposes of this section, be deemed to be in port, and shall be liable on re-entry to pay only the full pilotage dues chargeable in respect of such vessel as if for a first entry into port;

(c) the period during which such vessel has been out of port shall, for the purpose of reckoning buoy rent, be considered as part of her stay in port;

(d) where a sailing vessel or a vessel not exceeding three hundred tons burthen is compelled by stress of weather to re-enter port within twelve hours of her departure therefrom, no further port

dues shall be charged, if the Master Attendant certifies that the vessel could not have proceeded on her voyage without unnecessary risk.

(2) Parliament may from time to time, by means of resolution duly passed at any public session, increase, reduce, abolish, or otherwise alter the port dues leviable and payable under Schedule C³ on ships arriving at or departing from any port of Sri Lanka, and upon cargo imported to or exported from Colombo, or may impose port dues upon such ships in cases where port dues, at the time when such resolution is passed, are not chargeable under the said Schedule: or may add to, rescind, or vary any of the conditions, exceptions, or provisions of the said Schedule with regard to the charge or payment of port dues. Such resolution shall not take effect until it shall have been notified in the *Gazette*.

24. Power of Director-General to summarily enforce payment of dues, rates, buoy rent, charges, and penalties.

If the master, owner, or agent of any vessel in respect of which any dues, rates, buoy rent, charges, or penalties have heretofore become payable, or have been incurred, or shall hereafter become payable or be incurred, whether under this Ordinance, or under any regulations or orders made in pursuance thereof, or under any other enactment or regulations, refuses or neglects to pay them or any part of them on demand, the Director-General of Customs of the port may of his own authority distrain or arrest such vessel and the tackle, apparel, and furniture belonging thereto or any part thereof, and detain the same until the amount so due is paid to him. And, in case any part of the said dues, rates, buoy rent, charges, or penalties, or of the costs of the distress or arrestment, or of the keeping of the same remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Director-General of Customs may cause the vessel or other thing so distrained or arrested to be sold, and the amount due to the State shall be deemed to be a first charge on the proceeds of such sale. The balance, if any, of the proceeds of the sale, after satisfying the amount due to the State together with all costs, shall be rendered by the Director-General of Customs to the master, owner, or agent of such vessel on demand.

25. Composition for dues.

Any coastwise ship shall be allowed to compound for port dues for twelve months at such rate per ton of the registered tonnage as may be fixed by the Minister by Notification published in the *Gazette*, and on payment thereof the Director-General or other principal officer shall grant a certificate which shall exempt such vessel while so employed from any further demand for port dues during the period stated in such certificate.

[S 25 subs by s 8 of Law 35 of 1974.]

26. Tonnage of ship how ascertained.

The tonnage or burthen of every British ship, within the meaning of this Ordinance, shall be the tonnage set forth in the certificate of registry of such ship, and the tonnage or burthen of every other ship shall for the purposes of this Ordinance be ascertained in the same manner as the tonnage of British ship is ascertained.

PART IV

REGULATIONS INWARDS

27. No goods to be landed nor bulk broken before report. Times and places of landing and care of officers. Goods not reported or entered, forfeited. Penalty.

And whereas it is expedient that the officers of Customs should have full cognisance of all ships coming into any port or place in Sri Lanka, or approaching the coast thereof, and of all goods on board or which may have been on board such ships, and also of all goods unladen from any ships in any port or place in Sri Lanka.

It is enacted that no goods shall be unladen from any ship arriving from parts beyond the seas at any port or place in Sri Lanka, nor shall bulk be broken after the arrival of such ship within the territorial waters of Sri Lanka, before due report of such ship and sufferance granted, in manner hereinafter directed; and that no goods shall be so unladen except at such times and places and in such manner and by such persons and under the care of such officers as hereinafter directed; and that all goods not duly reported, or which shall be unladen contrary hereto, shall be forfeited; and if bulk be broken contrary hereto the master of such ship shall forfeit a sum not exceeding one hundred thousand rupees; and if after the arrival of any ship within the territorial waters of Sri Lanka any alteration be made in the stowage of the cargo of such ship so as to facilitate the unloading of any part of such

cargo, or if any part be staved, destroyed, or thrown overboard, or any package be opened, such ship shall be deemed to have broken bulk:

Except coin, bullion, cattle, passengers.

Provided always that coin, bullion, cattle, and other livestock, and passengers with their baggage, may be landed previous to report, entry or sufferance.

[S 27 subs by s 9 of Law 35 of 1974; am by s 17 of Act 83 of 1988.]

28. Ship and cargo to be reported within twenty-four hours of arrival of ship. Particulars of report.

The master of every ship arriving at any port or place in Sri Lanka, whether laden or in ballast, shall come within twenty-four hours after such arrival, and before bulk be broken, to the Custom-house, and there make a report in writing, and such report shall be in duplicate, and shall make and subscribe a declaration to the truth of the same before the Director-General or other officer of Customs of the arrival and voyage of such ship, stating the name, country, and tonnage, and if British, the port of registry, the name and country of master, the country of the owners, the number of the crew, and how many are of the country of such ship, the number of passengers, if any, and whether such ship be laden or in ballast, and if laden, the marks, numbers, and contents of every package or parcel of goods on board, and the particulars of such goods as are stored loose, and where any such goods were laden, and where and to whom consigned, and where and what goods, if any, had been unladen during the voyage, and what part of the cargo, if any, is intended for exportation in such ship to parts beyond the seas, and what stores or stock remain on board such ship, as far as any of such particulars can be known to him; and further, the master shall answer all such questions concerning the ship and the cargo, and the crew and the voyage, as shall be demanded of him by such officer; and if any goods shall be unladen from any ship before such report be made, or if the master shall fail to make such report, or if after such report any package shall have been opened, or if he shall make an untrue report, or shall not truly answer the questions demanded of him, he shall be liable to a penalty not exceeding one hundred thousand rupees.

[S 28 am by s 18 of Act 83 of 1988.]

29. Master to deliver manifest, and, if required, bill of lading, or copy. Penalty on failure.

The master of every ship shall, at the time of making such report, deliver to the Director-General the manifest of the cargo of such ship, when a manifest is required, and, if required by the Director-General, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board; and in case of failure or refusal to produce such manifest or to produce such bill of lading or copy, or if such manifest or bill of lading or copy shall be false, or if any bill of lading be uttered or produced by any master, and the goods expressed therein shall not have been *bonafide* shipped on board such ship, or if any bill of lading uttered or produced by any master shall not have been signed by him or other duly authorised person, or any such copy shall not have been received or made by him previously to his leaving the place where the goods expressed in such bill of lading or copy were shipped, then in every such case such master shall be liable to forfeit a sum not exceeding one hundred thousand rupees.

[S 29 am by s 19 of Act 83 of 1988.]

30. Officers to board ships may seal or secure goods and open locks. Goods concealed forfeited. If seal broken, master to forfeit one hundred thousand rupees.

Officers of the Customs may board any ship arriving at any port in Sri Lanka, and freely stay on board until all the goods laden therein shall have been duly delivered from the same, and such officers shall have free access to every part of the ship, with To have free power to fasten down hatchways, and to access to all mark any goods before landing, and to lock ,up, seal, mark, or otherwise secure any goods on board such ship; and if any place or any box or chest be locked and the keys be withheld, such officers, if they be of a degree superior to tidewaiters or boatmen, may open any such place, box, or chest in the best manner in their power, and if they be tidewaiters, or boatmen, or only of that degree, they shall send for their superior officer who may open or cause to be opened any such place, box, or chest in the best manner in his power; and if any goods be found concealed on board any such ship they shall be forfeited; and if the officers shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal be wilfully opened, altered, or broken before the delivery of such goods, or if any of such goods be secretly conveyed away, or if the hatchways after

being fastened down by the officer be opened, the master of such ship shall be liable to forfeit a sum not exceeding one hundred thousand rupees.

[S 30 am by s 20 of Act 83 of 1988.]

31. Officers may be stationed in ships within the limits of any port.

Officers of the Customs may be stationed on board any ship while within the limits of any port or place in Sri Lanka, and the master of every ship on board of which any officer is so stationed shall provide every such officer with suitable shelter and accommodation while on board, and in case of neglect or refusal so to do shall be liable to forfeit a sum not exceeding ten thousand rupees.

[S 31 am by s 21 of Act 83 of 1988.]

32. Penalty on master not having clearance and if cargo do not correspond with ship's papers, or if goods sent out of vessels be not landed at the appointed places.

If any ship shall arrive at any port in Sri Lanka without, clearance or other paper which it is usual to grant at the place or places from which such ship shall have come, the master shall be liable to a penalty not exceeding twenty-five thousand rupees or if any goods entered on any clearance, or other paper granted at the place from which any ship shall have come, shall not be found on board such ship, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the ship be not landed at the appointed places, the master shall, in respect of any goods which are missing or deficient and not accounted for, be liable, if such goods are chargeable with duty, and if such duty can be ascertained, to a penalty of twenty five thousand rupees or a sum not exceeding the amount of the duty chargeable thereon, whichever is the greater amount, or if such duty cannot be ascertained or if such goods are not chargeable with duty, to a penalty not exceeding ten thousand rupees for each missing or deficient package, and the Director-General is authorised to require the payment of such penalty, and to decline the granting of clearance outwards to the master of any vessel so liable, and refusing the pay such penalty:

Provided always that nothing herein contained shall be construed to prevent the Director-General from accepting an explanation in the absence of clearance, or permitting at his discretion the master of any ship to amend obvious errors or to supply omissions from accidents or inadvertence, by furnishing an amended report, or accepting at his discretion an estimated single duty in respect of any class of goods.

[S 32 subs by s 22 of Act 83 of 1988.]

33. Goods unshipped from the importing vessel, or landed contrary to the regulations of the Director-General, forfeited. Penalty on persons concerned.

No goods shall be unshipped or carried from the importing ship to any wharf or other place, except under such rules, regulations, and restrictions as the Director-General may from time to time direct and appoint; and all goods unshipped or carried contrary to such rules, regulations, and restrictions, or any of them, shall be forfeited, together with the boat or other means used for the conveyance of such goods; and every person knowingly concerned in the unshipping or carrying of such goods, or into whose hands and possession such goods shall knowingly come, contrary to such rules, regulations, and restrictions, shall forfeit and pay a sum not exceeding one hundred thousand rupees, or treble the value of such goods, at the election of the said Director-General.

[S 33 am by s 23 of Act 83 of 1988.]

434. Provision with respect to unloading goods, depositing and removing of the same from the warehouse of the Republic, and penalties for failure to remove within prescribed time.

(1) No goods shall be unladen from any ship until a sufferance shall have been granted by the Director-General for the landing of the same, and no goods shall be landed except at the place appointed and expressed in such sufferance; and all goods so landed shall be taken and deposited in the warehouse of the Republic, and within three clear days from the date of landing the importer shall make a full and complete entry thereof as hereinafter provided, and shall either pay down all duties which shall be due and payable on such goods, or shall duly warehouse the said goods, or, if the goods be free of duty, shall so enter the same; and in default of such entry being made and the said goods being removed within three clear days as aforesaid, such goods shall during such time as they may remain in the warehouse be liable to additional rent at such rate as may be fixed by the Minister

by regulation under section 15; and all goods unladen, landed, or removed without such sufferance, or contrary to the directions in such sufferance, shall be forfeited.

[S 34(1) subs by s 11 of Law 35 of 1974.]

(2) In computing the said period of three clear days, public holidays shall not be taken into account; but, in ascertaining the period for which any goods are liable to double rent, account shall be taken of public holidays, and a fractional part of a period of twenty-four hours shall count as a full period of twenty-four hours.

35. No goods to be unladen except during the legal hours and days of business.

The master of any ship from which goods or cargo shall be unladen outside such hours as the Director-General with the sanction of the Minister may from time to time prescribe, or on any day when the Custom-house is closed for business, without permission from the Director-General, shall be liable to a fine not exceeding one thousand rupees, and the boat and other means used for the conveyance of such goods shall be liable to be forfeited.

[S 35 am by s 2 of Law 35 of 1974.]

36. Cargo in ships of 150 tons to be landed within ten days and exceeding 150 tons within twenty-five days after arrival of such ship. In default Director-General may land and convey goods to warehouse of the Republic. Duties to be paid within one month, or goods to be sold.

Except in special cases sanctioned by the Director-General of Customs, ten days, exclusive of public holidays, shall be allowed for the discharge of the import cargoes of vessels not exceeding 150 tons burthen; and twenty-five days for vessels exceeding that burthen; and the said period shall be calculated from the date on which the vessel was admitted to entry and sufferance granted; and if any goods remain on board after the periods above fixed the Director-General may order such goods to be at once landed, and in case of neglect of such directions or of unnecessary delay or other unwarranted cause the Director-General may authorise the landing of the cargo and its conveyance to the warehouse of the Republic; and if the duties, warehouse rent, and charges of landing and freight due upon any goods so landed shall not be paid within one month after such landing, the same shall be sold and the produce thereof applied, first to the payment of freight and landing charges, next of duties and warehouse rent, and the overplus, if any, shall be paid to the owner of the goods, if claimed within twelve months from the date of such sale, otherwise such surplus shall be brought to account as revenue:

Provided that it shall be lawful for the Director-General to have any small package or parcel of goods landed and conveyed to the warehouse of the Republic out of any ship whatever, although the periods above specified shall not have expired.

437. Goods in transit and goods trans-shipped allowed without payment of duty.

(1) Any goods in a vessel being goods mentioned in the import manifest as goods intended for transit in the same vessel to any port outside Sri Lanka may be allowed to be so transmitted without payment of duty.

(2) No transshipment of any goods shall be made without payment of duty except by the special order of the Director-General or other proper officer, and after due entry of the goods and subject to such conditions as may be prescribed by the Minister. If any goods are transhipped, or attempted to be removed from one vessel to another contrary to the provisions of this section, such goods, together with the boat and other means used for conveying the same, may be seized and shall be liable to forfeiture.

[S 37 subs by s 24 of Act 83 of 1988.]

38. Boat-notes to accompany goods unladen from any ship.

With all goods unladen from any ship there shall be sent with each boat load a boat-note, specifying the number or packages and the marks and numbers or other description thereof, and such boat-note shall be furnished and signed by an officer of the ship, and if there be a Customhouse officer on board the boat-notes shall be signed by such officer also; and the tindal and owner of the boat into which the goods have been laden shall be held responsible for the due landing and delivery at the Custom-house of all the goods so laden and specified in the boat-note, and shall be liable to treble the duties due on any deficiency; and if any goods be found in a boat without a boat-note, as above

provided for, or in excess of the quantity specified in the boat-note, or if the boat be found deviating from the proper course to the proper place of landing, the boat containing such goods may be detained by any officer of the Customs, and unless the cause of deviation or excess be explained to the satisfaction of the Director-General, such boat and such goods shall be liable to forfeiture.

The owner of each such boat shall provide the Director-General within such period as may be specified in that behalf by the Director-General a statement setting out the quantity and description of the goods so laden, the person to whom and the place at which he has delivered those goods, and such other particulars as the Director-General may, by written order issued to him not less than seven days before the expiration of the aforesaid period, require him to furnish. Any such owner who fails to provide such statement within such period shall be liable to a penalty of ten thousand rupees.

[S 38 am by s 25 of Act 83 of 1988.]

39. Ship's stores.

The stores of every ship shall be subject to the same duties and the same prohibitions, restrictions, regulations, fines, and penalties, as goods and merchandise on importation, and may in like manner be entered for payment of proper duties or to be warehoused.

40. Goods to be landed and examined at the expense of importer.

The unshipping, carrying, and landing of all goods, and the bringing of the same to the proper place for examination or for weighing, and the putting of the same into and out of the scales, and the measuring, counting, unpacking, and repacking, and the opening and closing of the same, and removing to and placing them in the proper place of deposit shall be performed by and at the expense and risk of the importer, consignee, or agent.

541. Goods in warehouse must be properly stowed and re-piled.

All goods placed in the warehouse of the Republic or other warehouses by any person shall be stowed by such person so as to afford easy access thereto, and in such parts or divisions of the warehouse and in such manner as the Director-General shall direct; and if the stowage be broken the goods shall be re-piled by the person breaking such stowage, in such manner as the Director-General may require.

542. Penalty for neglect or refusal.

If any person placing such goods or breaking the stowage shall neglect or refuse to stow or re-pile them as hereinbefore directed, he shall for such neglect or refusal be guilty of an offence, and be liable to a fine not exceeding one hundred rupees:

Expenses to be Provided that it shall be lawful for the person so offending to avoid prosecution for the offence by tendering double the sum incurred in properly stowing or re-piling the goods; and if such sum be duly tendered before the institution of the prosecution, no further proceedings shall be had against such person for the offence aforesaid.

In case of prosecution, the Magistrate shall paid to direct so much to the fine as shall be Director-General sufficient to cover the expense of properly stowing and re-piling the goods to be paid to the Director-General.

[S 42 am by s 2 of Law 35 of 1974.]

43. Prohibitions and restrictions.

If any goods enumerated in the table of prohibitions and restrictions in Schedule F shall be imported or brought into Sri Lanka contrary to the prohibitions and restrictions contained in such table in respect thereof, such goods shall be forfeited, and shall be destroyed or disposed of as the Director-General of Customs may direct:

Provided that if any dangerous substance be imported or brought into Sri Lanka without the licence of the Minister, or contrary to any of the regulations which may be made from time to time by the Minister, for the safe landing and deposit of such substance, the person importing or bringing the same to Sri Lanka, and any person concerned in such importation or bringing of the same, shall, in addition to the forfeiture above provided, be guilty of an offence and be liable to a fine not exceeding two thousand rupees.

[S 43 am by s 2 of Law 35 of 1974.]

44. Goods exported contrary to the prohibitions and restrictions in Schedule B to be forfeited.

If any person exports or attempts to export or take out of Sri Lanka any goods enumerated in the table of prohibitions and restrictions in Schedule B, in contravention of the prohibitions and restrictions contained in such table in respect thereof, such goods shall be forfeited, and shall be destroyed or disposed of as the Director-General of Customs may direct.

45. .

[S 45 rep by s 26 of Act 83 of 1988.]

46. Abatement of duty on damaged goods.

(1) Where any goods imported into Sri Lanka have sustained damage, the Director-General of Customs may, upon claim made in that behalf and upon proof to his satisfaction that such damage was sustained after the goods had been shipped in the importing ship and before the goods had been landed in Sri Lanka, make an abatement of the whole or any part of the duty chargeable thereon, as he may in his discretion determine.

(2) Every claim under subsection (1) for the abatement of duty shall be made by the importer or consignee of the goods in such form and in such manner as the Director-General may prescribe.

(3) If the importer or consignee of the goods is not satisfied with the abatement made by the Director-General, the Director-General may call upon two impartial merchants or representatives of insurance companies to examine the goods and report to what extent in their judgment the goods are lessened in value by the damage they have sustained, and may, in his discretion, having regard to such report, vary the original abatement.

(4) Where an abatement of the whole duty originally chargeable on any goods is made under subsection (1), or where any damaged goods are abandoned by the importer or consignee thereof, the Director-General may in his discretion take those goods for the use of the State, or order that those goods be destroyed or removed from the Customs premises under the supervision of an officer of Customs and at the expense of the importer or consignee of the goods.

(5) Where the importer or consignee of any goods fails to pay any sum incurred under subsection (4) in the destruction or removal of such goods, it shall be lawful for the officers of Customs to refuse to pass any other goods belonging to such importer or consignee until such sum is paid:

Provided that nothing in the preceding provisions of this subsection shall be deemed to prohibit the recovery of such sum from such importer or consignee as a debt due to the State.

47. Importer to deliver bill of entry together with other documents.

The person entering any goods inwards, whether for payment of duty or to be warehoused, or for payment of duty upon the taking out of the warehouse, or whether such goods be free of duty, shall deliver to the Director-General a bill of entry of such goods, on a form of such size and colour as may be specified in that behalf by the Director-General by Notification published in the *Gazette*, and be fairly written in words at length, expressing the name of the ship, and of the master of the ship in which the goods were imported, and of the place from which they were brought, and the description and situation of the warehouse, if they are to be warehoused, and the name of the person in whose name the goods are to be entered, and the quantity, value and description of the goods, and the number, dimensions, and denomination or description of the respective packages containing the goods, and such other particulars as the Director-General by that or a subsequent Notification may require him to furnish, and in the margin of such bill shall delineate the respective marks and numbers of such packages. The particulars furnished in the bill of entry shall be supported by such documents containing such particulars as the Director-General may, by Notification published in the *Gazette*, require if such person fails to deliver a bill of entry prepared, and supported by such documents, as aforesaid, he shall be liable to a penalty not exceeding one thousand rupees. Such person shall pay any duties and dues which may be payable upon the goods mentioned in such entry; and such person shall also deliver at the same time two or more duplicates of such bill, in which bill all sums and numbers shall be expressed in figures, and the particulars to be contained in such bill shall be legibly written and arranged in such form and manner, and the number of such duplicates shall be such, as the Director-General shall require, and such bill of entry when signed by

the Director-General, or person authorised by him, and transmitted to the proper officer, shall be the warrant to him for the examination and delivery of such goods; but if such goods shall not agree with the particulars in the bill of entry the same shall be forfeited, and such forfeiture shall include all other goods which shall be entered or packed with them as well as the packages in which they are contained.

[S 47 subs by s 27 of Act 83 of 1988.]

48. Delivery of goods prior to entry.

Notwithstanding anything contained in section 47, it shall be lawful for the Director-General, on application made and subject to such regulations as the Director-General of Customs may from time to time issue, to allow the delivery of goods with or without examination, prior to the presentation of the bill of entry:

Provided that—

(a) any mis-description or under-valuation appearing in the application shall render the importer liable to the penalties imposed by this Ordinance for mis-description or undervaluation in the bill of entry;

(b) such delivery shall not in any way be construed as a waiver of the Director-General's right to order forfeiture of the goods for any breach of this Ordinance committed in respect to such goods by the importer thereof, or relieve such importer from any penalty or liability to which he would have been subject had delivery been claimed on the presentation of the bill of entry;

(c) if any sum of money imposed as a penalty be not duly paid, it shall be lawful for the officers of Customs to refuse to pass any other goods imported by that importer until the said sum of money is paid.

49. Entry by bill of sight. Perfect entry to be made within three days. In default goods to be sold after one month.

The importer of any goods, or his agent, if unable, for want of full information, to make perfect entry of such goods, may on making and subscribing a declaration to that effect before the Director-General, or other proper officer of Customs, make an entry by bill of sight for the packages or parcels of such goods, in order that the same may be seen and examined by the proper officer, and within three days after the goods shall have been so examined the importer shall make a perfect entry thereof, either for payment of duty or for warehousing, as the case may be; but if the importer shall neglect to pass such perfect entry within one month after the date of the examination, such goods shall be sold for the payment of duties, warehouse rent, and other charges due thereon, and the overplus, if any, shall be paid to the proprietor of the goods.

50. Entry to agree with manifest Goods not duly entered forfeited.

No entry nor any warrant for the delivery of any goods, or for the taking of any goods out of any warehouse, shall be valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, and in the manifest, where a manifest is required, and in the certificate or document, where any is required, by which the importation or entry of such goods is authorised, nor unless the goods shall have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported, either to be used in Sri Lanka, or to be warehoused for exportation only; and any goods taken or delivered out of any ship, or out of any warehouse, or for the delivery of which, or for any order for the delivery of which, from any warehouse, demand shall have been made, not having been duly entered, shall be forfeited.

50A. Action applicable to goods exempted from Customs duties and other dues conditionally.

(1) Where any goods imported Sri Lanka have been—

(a) exempted from the payment of Customs duties or other dues chargeable on their importation or charged with Customs duty at reduced rate, subject to any conditions stipulated in that behalf; or

(b) allowed into Sri Lanka, under any other law subject to any conditions to be fulfilled after their importation,

and where such conditions are not complied with, then such goods shall be forfeited.

(2) If such goods are not at the time of forfeiture in the possession of the person in whose name such goods were imported, then such person shall forfeit a sum not exceeding three times the value of such goods as at the time of their importation.

(3) The provisions of this section shall apply whether or not any undertaking or security has been given under any other provisions of this Ordinance for compliance with the conditions stipulated or for the payment of the duty payable and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

[50A ins by s 28 of Act 83 of 1988.]

51. Value of goods for the purpose of ad valorem duties.

In all cases when the duties imposed upon the importation of articles are charged according to the value thereof, the respective value of each such article shall be stated in the entry together with the description and quantity of the same, and duly affirmed by a declaration made by the importer or his agent on a form of such size and colour as may be specified by the Director-General by notification published in the *Gazette*, and such value shall be determined in accordance with the provisions of Schedule E, and duties shall be paid on a value so determined.

[S 51 subs by s 29 of Act 83 of 1988; am by s 2 of Act 2 of 2003.]

51A. When officer in doubt he may call for further information.

(1) —

(a) Whenever an officer of Customs has reason to doubt the truth or accuracy of any particulars contained in a bill of entry or a declaration made under section 51 or the documents presented to him in support of a bill of entry under section 47, the officer of Customs may require the importer or his agent or any other party connected with the importation of goods, to furnish such other information, including documentary or other evidence in proof of the fact that the declared Customs value represents the total amount actually paid or is payable for the imported goods as adjusted in accordance with Article 8 of Schedule E.

(b) After the receipt of further information or in the absence of any response, if the officer of Customs still has reasonable doubt as to the truth or accuracy of the declared Customs value, it shall be deemed that the Customs value of the imported goods in question cannot be determined under the provisions of Article 1 of Schedule E and the importer, if so requests, shall be informed by the officer in writing of the grounds for such doubt and be afforded an opportunity to be heard.

(c) The officer of Customs may thereafter proceed to determine the Customs value in accordance with the other provisions of Schedule E and amend the value as appropriate.

(2) If an officer of Customs is satisfied as a result of an examination or investigation, or an audit carried out under section 128A, at any time prior to or after the clearance of the goods that the value declared by the importer or his agent under an Article of Schedule E under which the value was initially accepted, is not appropriate the officer of Customs may amend the value in accordance with the appropriate Article of Schedule E.

(3) For the purpose of this Ordinance, the Customs value shall be the amended value under subsection (1) or (2).

(4) Upon a written request, an explanation shall be given in writing to the importer, on how the Customs value of the importers goods was determined under subsection (2).

(5) Subsection (2) shall apply to goods whether or not such goods have been released from the control of the Customs or any duty assessed on them has been paid.

(6) An importer who is dissatisfied with a decision of the officer, under this section may, within ten working days after the date on which notice of the decision is given, appeal to the Director-General against that decision. The right of appeal shall be available to an importer whether or not the imported goods have been released to him and whether or not any part of the Custom duty has been paid. The decision of the Director-General on the appeal and the reasons for such a decision shall be in writing.

(7) Where the importer desires to clear the goods pending the determination of his appeal the Director-General may, except in case where fraud is suspected, allow the clearance of the goods upon furnishing security for the payment of the Customs duties and other levies for which the goods may be liable.

[S 51A ins by s 3 of Act 2 of 2003.]

51B. Importer to keep records for three years.

(1) Every importer, agent or others concerned in the importation, movement and years storage of imported goods shall keep or cause to be kept in Sri Lanka such records for a period of three years from the date of importation as may be prescribed.

(2) Every such person shall whenever required by an officer of Customs—

- (a) make the records available to such officer;
- (b) provide copies of the records as required; and
- (c) answer any questions relating to mailers arising under the Ordinance.

[S 51B ins by s 3 of Act 2 of 2003.]

51C. Confidentially to be strictly maintained.

All information which are confidential in nature or are provided in confidence for the purpose of Customs valuation shall be so treated by the officer of Customs and shall not be disclosed without the written permission of the persons or government providing such information, except to the extent that it may be required to be disclosed in the course of judicial proceedings.

[S 51C ins by s 3 of Act 2 of 2003.]

52. Forfeiture for non-compliance or false declaration. Forfeiture of value where goods not recoverable.

Where it shall appear to the officers of the Customs that the value declared in respect of any goods according to section 51 is a false declaration, the goods in respect of which such declaration has been made shall be forfeited together with the package in which they are contained. Where such goods are not recoverable, the person making such false declaration shall forfeit either treble the value of such goods or be liable to a penalty of one hundred thousand rupees, at the election of the Director-General of Customs.

[S 52 subs by s 30 of Act 83 of 1988; am by s 4 of Act 24 of 1991; Act 2 of 2003.]

52A. Penalty failing to keep destroying or altering records.

Every person who in contravention of the provisions of the Ordinance, fails to keep records which are required to be kept under section 51 or destroys, alters or conceals a book register, record or other document required to be kept under this Ordinance or sends or attempts to send out of Sri Lanka any such book register, record or document commits an offence and shall be liable to a penalty not exceeding five hundred thousand rupees.

[S 52A ins by s 5 of Act 2 of 2003.]

PART V

ENTRY OF GOODS REIMPORTED

53. Entry of re-imported, goods by bill of stores.

All goods, the produce or manufacture of Sri Lanka, shall reimported be deemed and taken to be, and be entered as foreign produce or manufacture, and shall be liable to the same duties, rules, regulations, and restrictions as such goods of foreign produce and manufacture would be liable to on importation thereof, unless the same shall be reimported within two years after the exportation thereof, and unless it be proved to the satisfaction of the proper officers that the property in such goods has continued and still remains in the person by whom or on whose account the same have been exported, in which case the same may be entered as goods, the produce or manufacture of Sri Lanka, by bill of store containing such particulars, and in such form and manner as the Director-General may direct.

54. Bill of store may be issued by the proper officer. Agent to declare name of employer. Consignee to declare who is proprietor. Proprietor to declare to identity and proprietor unchanged. The entry by bill of store to be granted. Conditions for grant of will of store.

The person in whose name any goods re-imported were entered for exportation shall deliver to the proper officer of Customs an exact account signed by him of the particulars of such goods referring to the entry and clearance outwards, and to the return inwards of the same, with the marks and numbers of the packages, both inwards and outwards; and thereupon the officer finding that such goods had been legally exported shall grant a bill of store for the same and if the person in whose name such goods were entered for exportation was not the proprietor thereof, but his agent, he shall declare in such bill of store the name of the person by whom he was employed as such agent, and if the person to whom such returned goods are consigned shall not be such proprietor and exporter, he shall make and subscribe a declaration in such bill of store of the name of the person for whose use such goods have been consigned to him, and the real proprietor ascertained to be such shall make and subscribe a declaration upon such bill of store to the identity of the goods so exported and so returned, and that he was at the time of exportation and of re-importation the proprietor of such goods, and that the same had not during such time been sold or disposed of to any other person, and such declaration shall be made before the Director-General and thereupon the Director-General, shall admit such goods to entry by bill of store, and grant his warrant accordingly:

Provided that in any case where at the time of exportation of the goods, drawback or rebate of any Customs duty levied was allowed or where the goods were exported from bond without payment of the Customs duty upon first entry, the Customs duty equal to the amount of such drawback or rebate and the duty if any that would have been payable on such goods or such part of the goods as may have been used in the manufacture of the article imported shall have to be paid.

[S 54 subs by s 31 of Act 83 of 1988.]

PART VI

REMOVAL OF GOODS BY SEA OR INLAND CARRIAGE

55. Goods may be removed by land, or from one sea port to another in Sri Lanka.

Goods may be removed or carried from one port of Sri Lanka to any other port there in by sea or inland carriage previous to payment of duties, on the owner or his agent duly entering the same, and giving bond to the satisfaction of the Director-General for the due delivery thereof at the Custom house of the port to which such goods are to be removed; and if the seals of office attached to such packages be broken, or if the contents shall not be found to agree with the particulars of entry and advice from the port of removal, such packages, with their contents, shall be forfeited, and the bond given for the safe and due delivery of the goods enforced. The Minister may from time to time direct and appoint rules, regulations, and restrictions in respect of the said removal of goods, and all goods carried or removed contrary thereto shall be forfeited.

PART VII

REGULATIONS OUTWARDS

56. Ship to be entered and goods cleared before shipment.

And whereas it is expedient that the officers of Customs should have full cognisance of all ships departing from any port or place in Sri Lanka and of all goods taken out of Sri Lanka; it is enacted that the master of every ship shall, before any goods be laden therein, deliver to the Director-General a certificate from the proper officer of the due landing of the inward cargo of such ship, of her last voyage, and also an entry outwards under his hand, stating her name, country, and tonnage, the port of registry, the name of the master and of the owners, and the number of the crew and passengers, and the destination of such ship. If any goods be laden on board any ship before such entry be made, the master of such ship shall forfeit a sum not exceeding ten thousand rupees.

[S 56 am by s 32 of Act 83 of 1988.]

57. Exporter to deliver bill of entry.

The person exporting any goods whether liable to the payment of duty or free of duty shall deliver to the Director-General a bill of entry of such goods, on a form of such size and colour as may be specified in that behalf by the Director-General by notification published in the *Gazette*, and fairly written in words at length expressing the name of the ship in which the goods are to be exported and of the port to which they are to be taken, and containing an accurate specification of the quantity, quality, and value of such goods, and the number, denomination, dimensions, and description of the

respective packages containing the goods and such other particulars as the Director-General by that or a subsequent notification may require him to furnish, and in the margin of such bill of entry shall delineate the respective marks and numbers of such packages.

If such person fails to deliver a bill of entry prepared as aforesaid, he shall be liable to a penalty of one thousand rupees. Such person shall pay any duties and dues which may be payable on the goods mentioned in such entry, and such person shall also deliver at the same time two or more duplicates of such bill in which all sums and numbers shall be expressed in figures, and the particulars to be contained in such bill shall be legibly written and arranged in such form and manner and the number of such duplicates shall be such as the Director-General shall require, and such bill of entry when signed by the Director-General or person authorised by him and transmitted to the proper officer shall be the warrant to him for the examination of and delivery for shipment of such goods, and if such goods shall not agree with the particulars in the bill of entry, or if such goods are removed from the warehouse or other place appointed for shipment before such entry is passed and all duties and dues paid, and in the absence of any explanation to the satisfaction of the Director-General the same shall be forfeited, and such forfeiture shall include all other goods which shall be entered or packed with them as well as the packages in which they are contained.

[S 57 am by s 33 of Act 83 of 1988.]

58. Exportation prior to the presentation of the bill of entry

Notwithstanding anything contained in section 57, it shall be lawful for the Director-General, on application made in that behalf by an exporter of goods and subject to such conditions as may be imposed by the Director-General and notified in the *Gazette*, to permit the exportation of such goods prior to the presentation of the bill of entry for such goods:

Provided that—

(a) any mis-description or under-valuation appearing in the application shall render the exporter liable to the penalties imposed by this Ordinance for mis-description or undervaluation in the bill of entry;

(b) such permission to export shall not in any way be construed as a waiver of the Director-General's right to order forfeiture of the goods, if the goods have not already been shipped out of Sri Lanka, for any breach of this Ordinance committed in respect of the goods by the exporter, or shall not relieve the exporter from any penalty or liability to which he would have been subject had the goods been exported after the presentation of the bill of entry; and

(c) if any sum of money imposed as a penalty be not duly paid, it shall be lawful for the officers of Customs to refuse to pass any other goods brought for exportation by the exporter until the said sum of money is paid.

59. Boat-notes to accompany goods laden for export.

No goods shall be laden, put off, or waterborne to be shipped for exportation or coastwise, or shipped on board any ship, boat, or lighter, outside such hours as the Director-General with the sanction of the Minister may, from time to time, prescribe, or on any day when the Custom-house is closed for business, without permission from the Director-General, nor from any place except some legal quay or other place duly appointed by the Director-General, nor without the presence or authority of the proper officer of Customs, nor before due entry outwards of the vessel on which the goods are to be shipped, nor before such goods shall have been duly entered and duly cleared for shipment by such officer, who may open all packages and fully examine all goods brought and intended for shipment; and all goods laden, put off, or water-borne, in any ship, boat, or lighter shall be accompanied by a boat-note signed by the locker or other officer of Customs and specifying the number of packages and the marks and numbers and other descriptions of the goods, and all goods shut out for any reason shall be immediately re-conveyed to the place of lading; and the Director-General shall have power, with the approval of the Minister, to make regulations from time to time relating to the shipping of goods and to the re-landing of shut-out cargo, and all goods which are laden, put off, water-borne, or shipped contrary to the provisions of this section or of any regulations made hereunder, or which are found in a boat without a boat-note, or in excess of the quantity specified in the boat-note, or in excess of the quantity shut out, or which are shipped on board any vessel not duly entered outwards may be re-landed by the proper officer of Customs, and, in the absence of any explanation to the satisfaction of the Director-General, shall be forfeited together with the means of conveyance.

Every person knowingly concerned in the lading, putting off or carrying of such goods, or into whose hands and possession such goods shall knowingly come, contrary to the provisions of this section or

of any such regulation, shall forfeit and pay a sum not exceeding one hundred thousand rupees, or treble the value of such goods, at the election of the Director-General.

[S 59 am by s 34 of Act 83 of 1988.]

59A. Goods to be examined at expenses of exporter.

All such steps as are deemed necessary by the Director-General or proper officer of Customs for the purpose of the examination of any goods brought and intended for shipment shall be performed by and at the expense and risk of the exporter or his agent.

[S 59A ins by s 13 of Law 35 of 1974.]

560. Stiffening order.

When it shall become necessary to lade heavy goods on board any ship before the whole of the inward cargo is discharged, the Director-General may, previous to the entry outwards of the ship, issue a stiffening order, sanctioning the shipment of the goods.

61. Stores.

On due requisition by the master the Director-General may allow for the use of such ship such stores as may appear necessary according to the voyage upon which she is about to depart, but no articles taken on board any ship shall be deemed to be stores unless duly shipped as such by entry or by permit of the Director-General or other proper officer.

562. Director-General may grant general sufferance for the shipping of goods.

On the entry outwards of any ship the Director-General shall grant a general sufferance for the shipment and lading of any sort of goods, the produce or manufacture of Sri Lanka, except such as shall be expressly excepted therein: Provided always that before the clearing outwards of such ship, the exporter of any goods on board the same shall deliver to the Director-General an entry, containing an accurate specification of the quantity, quality, and value of such goods; and if such declaration be false, or if he fails to make such entry before the content of the ship is delivered in by the master, he shall forfeit a sum not exceeding five thousand rupees; and the Director-General may refuse to certify such shipment on the clearance of such ship.

[S 62 subs by s 14 of Law 35 of 1974; am by s 35 of Act 83 of 1988.]

63. Master to deliver content answer questions, and produce bills of lading Certificate of clearance.

Before any ship, whether laden or in ballast, shall be cleared outwards at any port in Sri Lanka, the master shall deliver a content of such ship, setting forth the name and tonnage of such ship and the place or places of her destination, and the name of the master, the number of passengers, also, if laden, an account of the goods shipped on board, and of the packages containing such goods, and of the marks and numbers upon such packages, and a like account of the goods on board, if any, which had been reported inwards for exportation in such ship, so far as any of such particulars can be known by him, and the master of the ship shall furnish such content in duplicate, and shall make and sign a declaration before the Director-General to the truth of such content, and shall also answer such questions concerning the ship, the cargo and the intended voyage, as the Director-General shall demand of him, and, if required by the Director-General, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board, and thereupon the Director-General or other proper officer shall make out and give to the master a certificate of the clearance of such ship for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, he shall forfeit a sum not exceeding one hundred thousand rupees.

[S 63 am by s 36 of Act 83 of 1988.]

64. Officers may board vessels after clearance.

It shall be lawful for the officers of the Customs to go on board any ship before and after clearance outwards within the limits of any port in Sri Lanka, or within the territorial waters of Sri Lanka, and to demand the certificate of clearance and the victualling bill, and if there be any goods on board subject

to duty and not duly entered outwards, such goods shall be re-landed and forfeited; and if any goods contained in such clearance or victualling bill be not on board, the master shall forfeit a sum not exceeding five thousand rupees for every package or parcel of goods contained in such clearance or victualling bill and not on board.

[S 64 subs by s 15 of Law 35 of 1974; am by s 37 of Act 83 of 1988.]

PART VIII

TRADE BY VESSELS OF LESS THAN 15 TONS BURTHEN

65. No goods to be imported or exported in vessel of less than 15 tons.

No goods shall be imported into or exported from Sri Lanka from or to parts beyond the seas in any ship of less burthen than fifteen tons, and any goods so imported or exported shall be forfeited:

Unless allowed by Order of the Ministers.

Provided that it shall be lawful for the Minister, by any Order to be by him issued and published in the *Gazette*, to allow ships or boats under fifteen tons burthen to import or export any goods from or to parts beyond the seas, at such ports or places, and during such periods or times and in such manner as may be deemed expedient, upon any pearl fishery or other occasion appearing to require the same.

PART IX

REGULATIONS COASTWISE

66. Coastwise trade.

All ships conveying goods coastwise, and all goods imported or exported coastwise, shall be liable to the like cognisance of the Customs, and be subject to the same prohibitions, restrictions, regulations, fines, forfeitures, and penalties as goods imported from or exported to parts beyond the seas, and it shall be lawful for the Minister to make and appoint such other regulations, by any Order to be by him issued and published in the *Gazette*, for the carrying coastwise of any goods, as to him shall appear expedient, and such Order shall have the same effect in law as if it had formed part of this Ordinance.

67. What goods shall be carried coastwise.

No goods shall be carried in any coasting ship except such as shall be laden to be so carried at some port or place in Sri Lanka, and if any goods shall be taken into or put out of any coasting ship at sea, or over the sea, or if any coasting ship shall touch at any place over the sea, or deviate from her voyage, unless forced by unavoidable circumstances, or if the master of any coasting ship which shall have touched at any place over the seas shall not declare the same in writing under his hand to the Director-General at the port in Sri Lanka where such ship shall afterwards first arrive, the master of such ship shall be liable to forfeit a sum not exceeding one hundred thousand rupees.

[S 67 am by s 38 of Act 83 of 1988.]

PART X

REGULATION OF MOVEMENTS OF SHIPS UNDER 250 TONS TONNAGE

68. Regulation of movements of ships under 250 tons tonnage.

(1) The Minister in charge of the subject of Finance may make any such regulations as may appear to him expedient for the purpose of enabling the officers of Customs to have full cognisance of the movements, to or from any port or place in Sri Lanka, of ships not exceeding 250 tons tonnage, and generally for the purpose of the prevention of the smuggling of goods into or from Sri Lanka or of the importation or exportation of goods contrary to any such prohibitions or restrictions as may be applicable by virtue of any other written law.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations made under that subsection may provide for all or any of the following matters—

(a) the registration by the Director-General of Customs of ships ordinarily based or stationed at any port or place in Sri Lanka, and the prohibition of the use of ships or of the making of voyages or the conveyance of goods by ships which are not duly registered;

(b) the limits within which ships may be used or make voyage, the places at which they may be stationed or anchored, the mode of navigation thereof, the purposes for which and the manner in which they may be employed, and the marking of ships with their names or with numbers assigned to them by the Director-General;

(c) the prohibition of the employment or engagement on ships, whether as master or member of the crew, of any person who has at any time been convicted of any offence mentioned in section 129 or section 130 or any other specified section of this Ordinance;

(d) the issue of licenses by the Director-General of Customs exempting ships from the operation of any regulation made in respect of any matter referred to in the preceding paragraph (b), and the circumstances in which, and the conditions and restrictions subject to which, such licenses may be issued.

(3) Any regulation made under the preceding provisions of this section may be limited in its application to ships of any specified tonnage, build or description or to ships ordinarily based at or departing from or arriving at, any port or place in any specified area in Sri Lanka; and any such regulation may provide different requirements in respect of ships of different tonnage, build or description or ordinarily based or stationed at ports or places in different areas.

(4) Every regulation made by the Minister under the preceding provisions of this section shall be brought before Parliament for approval, and if so approved shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such regulation.

(5) Every ship which is used or employed or makes voyage in any manner contrary to any regulation made under the preceding provisions of this section which may be applicable to such ship, and any goods which are unlawfully carried therein or any goods which having been unlawfully carried therein are jettisoned therefrom, shall be liable to forfeiture.

(6) Any person who knowingly or willfully contravenes or fails to comply with any provision of any regulation made under the preceding provisions of this section shall of be liable to a penalty not exceeding ten thousand rupees.

[S 68(6) am by s 39 of Act 83 of 1988.]

PART XI

WAREHOUSING OF GOODS

69. Power to appoint warehouses for warehousing of goods.

The Director-General may, from time to time by notice in writing under his hand, appoint warehouses or places of security for the purposes of this Ordinance and direct in what different parts or divisions of such warehouse or places, and in what manner, and under what regulations, any and what sort of goods may be warehoused, kept, and secured without payment of duty upon the first entry thereof, and may having regard to the nature and the value of the goods to be warehoused also direct in what cases, and with what sureties, and to what amount, security by bond or such other security shall be required in respect of any warehouse so appointed as aforesaid, or in respect of any goods deposited therein, or for the security of the duties due thereon; and the Director-General, may having regard to the safety and the security of the goods to be warehoused therein, by a like notice revoke or alter any such appointments or declarations; but every such notice of the appointment of warehouses, or of the revocation thereof, shall be subject to the Minister's approval and shall be published in such manner as he may direct:

Appointment of warehouses in specified ports.

Provided however that the appointment of any warehouse or place of security within a specified port as defined in the Sri Lanka Ports Authority Act, No. 51 of 1979, or within an airport shall be with the concurrence of the Sri Lanka Ports Authority established by the Sri Lanka Ports Authority Act or of the authority in charge of such airport, as the case may be.

[S 69 subs by s 40 of Act 83 of 1988.]

70. Warehouse Keeper to give security as required by the Director-General.

The proprietor or occupier of every warehouse approved of and appointed as aforesaid, or someone on his behalf, shall give or procure to be given security by bond with or without sureties, or such other security as the Director-General may approve, for the payment of the full duties of importation on or

for the due entry for exportation or for exportation after any process of manufacture or assembly as provided for in section 84 of all such goods as shall at any time be warehoused therein and no goods shall be warehoused in any such warehouse until such security shall have been given.

[S 70 subs by s 41 of Act 83 of 1988.]

71. Importer under certain restrictions may warehouse the goods.

The importer of any goods into any warehousing port may warehouse the same in warehouses appointed as aforesaid, or in any public warehouse, without payment of any duty on the first entry thereof, subject to the regulations, restrictions, and conditions hereinafter mentioned and from time to time directed by the Director-General; but nothing herein contained shall be construed to render it incumbent on Government to provide accommodation for the warehousing of goods, or for the deposit of salt, which shall be warehoused only in private warehouses.

72. Entry for the warehouse. Particulars. Warrant for warehousing. Bond upon entry of goods for the warehouse.

The importer of any goods intended to be warehoused without payment of duty on the first entry thereof, or his agent, shall deliver to the Director-General a bill of entry of such goods in the same manner and form and containing the same particulars as are hereinbefore required on the entry of goods to be delivered for home use, as far as the same shall be applicable, and the name and description of the warehouse in which such goods are intended to be warehoused, and the name of the person in whose name they are to be so warehoused, and such bill of entry when signed by the Director-General or other authorised officer shall be transmitted to the proper officer of Customs and be the warrant for the examination and due warehousing of such goods, and all goods not duly entered shall be liable to forfeiture; but the Director-General may, if he see fit in any case so to do, require bond to be given by the importer or consignee in treble the amount of duties due thereon for the safe deposit and due clearance of such goods.

73. Power of lessee of Customs premises in certain cases to cause warehousing entry to be passed for goods.

If at any time a portion of the Customs premises has been or shall be leased for the purpose of landing, shipping, and warehousing goods to any company constituted for these purposes, it shall be lawful for such company, if the owners of any goods landed within such premises shall fail to make entry thereof and remove the same within ten clear days, to cause a warehousing entry to be passed for such goods under the general description of merchandise without the particulars required by section 72 and to remove the same to their warehouse, and the reasonable expenses of such entry, removal, and warehousing shall be reimbursed to such company by the owner or consignee of the goods so entered as aforesaid, and shall be recoverable by the said company: Provided that no goods entered by such company as aforesaid shall be liable to seizure by reason of any inaccuracy in the passing of any such entry, if it shall appear to the Director-General of Customs that such inaccuracy was not intentional or occasioned by willful or culpable negligence; Provided, further, that in the case of any goods removed under this section no warehouse warrant shall issue, and that, if after the expiry of three months, such goods shall not have been cleared, they shall be sold in accordance with the provisions of section 109 of this Ordinance.

74. Goods warehoused to be marked and numbered Storage of goods warehoused. Penalty. Locking and opening warehouses. Carrying goods to and from warehouses.

All goods so entered to be warehoused shall before deposit in any warehouse be properly marked and numbered by the importer in legible characters with the initials of the owner, importer or consignee or other distinguishing marks, and the goods shall be stowed so as to afford easy access thereto, and to every package or parcel in such parts or division of the warehouse, and in such manner as the Director-General or the proper officer shall direct, and if the stowage be broken the goods shall be re-piled by the person breaking such stowage in such manner as the Director-General may require, and the neglect or refusal to stow or re-pile them as hereinbefore directed shall subject the occupier of the warehouse, or the person so contravening, to a penalty not exceeding ten thousand rupees. The warehouse shall be locked and secured in such manner, and shall be opened on such days and during such hours as the Director-General may from time to time prescribe, and visited only at such times and in the presence of such officers, and under such regulations as the Director-General shall direct and all such goods shall, after being landed upon importation, be carried

to the warehouse, or shall after being taken out of the warehouse for exportation or for stores, be carried to be shipped, under such regulations as the Director-General shall direct.

[S 74 subs by s 42 of Act 83 of 1988.]

75. Goods not duly warehoused or fraudulently concealed or removed, forfeited.

If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, they shall be forfeited, together with the goods with which they shall have been so packed, and the packages in which they shall have been concealed.

76. Warehouse keeper neglecting to produce goods deposited, when required, to forfeit one hundred rupees.

If the warehouse keeper of any warehouse shall not produce to any authorised officer of Customs on his request any goods deposited in such warehouse which shall not have been duly cleared and delivered therefrom, such warehouse keeper shall for every such neglect forfeit the sum of five thousand rupees in respect of every package or parcel not so produced.

[S 76 am by s 43 of Act 83 of 1988.]

77. Importer or proprietor clandestinely gaining access to warehoused goods to forfeit one hundred thousand rupees.

If the warehouse keeper of any warehouse, or the importer or proprietor of any goods warehoused therein, or any person in his employ, shall clandestinely open the warehouse or gain access to the goods except in the presence of the proper officer of Customs acting in the execution of his duty, such warehouse keeper, importer, or proprietor shall for every such offence forfeit a sum not exceeding one hundred thousand rupees.

[S 77 am by s 44 of Act 83 of 1988.]

78. Duty on goods taken out of warehouse without entry to be paid by warehouse keeper. Persons taking out of or destroying goods in warehouse to be deemed guilty of an offence. Importer or consignee defrauded by officers to be indemnified.

If any goods shall be taken out of any warehouse without due entry of the same with the proper officer of Customs, the warehouse keeper of such warehouse shall forthwith pay the duties due upon such goods, and every person so taking out any goods without payment of duty, or who shall aid, assist, or be concerned therein, and every person who shall willfully destroy or commit criminal breach of trust of any goods duly warehoused, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment; but if such person shall be an officer of Customs not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or proprietor of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such waste, spoil or criminal breach of trust shall, with the sanction of the Minister, be repaid or made good to such importer, consignee, or proprietor by the Director-General of Customs.

[S 78 am by s 45 of Act 83 of 1988.]

79. Director-General may remit duties on warehoused, goods lost or destroyed.

If any goods entered to be warehoused, warehoused, or entered to be delivered from the warehouse, shall be lost, damaged, or destroyed by unavoidable accident, either in receiving into the warehouse or in the warehouse, the Director-General may remit the duties due thereon.

80. Landing account to be taken of goods for the warehouse. Contents to be marked on packages and in landing book.

Upon the entry and landing of any goods to be warehoused, the proper officer of Customs shall take a particular account of such goods at the quay, wharf, or warehouse at which they shall be so landed, and shall enter in a book prepared for that purpose the name of the importing ship, and of the person in whose name they are entered, the marks, numbers, and contents of every such package, the

description of the goods, and the warehouse in which the same shall be deposited, and when the same shall have been so deposited with the authority of such officer, he shall certify that the entry and warehousing of such goods is complete, and such goods shall from that time be considered goods warehoused; and if any such goods shall be delivered, withheld, or removed from the proper place of examination before the same shall have been duly examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused, and shall be liable to be forfeited.

81. Goods to be entered and duties paid according to landing account.

The account of goods so taken as aforesaid shall be the account upon which the duties payable upon such goods shall be ascertained, when the same shall ultimately come to be delivered upon due entry for that purpose, and the same shall be entered and the full duties due thereon be paid, according to the quantity taken in such account, without any abatement for any deficiency except as hereinafter provided.

82. Goods to be cleared within two years. Duties to be paid upon deficiencies.

All warehoused goods shall be cleared either for home use or exportation within two years from the date on which the same were warehoused, or within such further period as the Director-General shall allow, in which case the goods shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing, and the quantity found to exist on such examination, together with the warehouse rent and necessary expenses attendant thereon shall, subject to such allowances as are by law permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof, in the same manner as on first importation: Provided that the Director-General may require any goods to be cleared at any time within the period of two years, if he considers that the goods are likely to deteriorate, or for any other reason.

[S 82 subs by s 16 of Law 35 of 1974.]

83. Goods not cleared or re-warehoused or duties paid on deficiencies after two years to be sold. Proceeds of sale how to be applied. Goods not worth the duty same may be exported or destroyed.

If any warehoused goods shall not be duly cleared, exported, or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid shall not be paid at the expiration of two years from the previous entry and warehousing thereof, or within such further period as shall be permitted by the Director-General, the same, if worth the duty due thereon, shall after one month's notice to the warehouse keeper, importer or consignee, be sold either for home use or exportation with or without the consent of the warehouse keeper, importer, or consignee; and the proceeds thereof shall be applied to the payment of the duties, warehouse rent, and charges, and the surplus, if any, shall be paid to the owner or proprietor of such goods, if known; but if such owner or proprietor cannot be found, such surplus shall be carried to the account of Government to abide the claim of such owner or proprietor on his appearing and making good his claim thereto within one year from the date of sale; and if such goods shall not be worth the duty, then the after such one month's notice as aforesaid may be exported or may be destroyed, with or without the concurrence of the owner thereof, or the warehouse keeper of the warehouse in which the same were so warehoused, as the Director-General shall see fit; and the duties due upon any deficiency thereof, not allowed by law, shall, if required by the Director-General, be forthwith paid by the warehouse keeper.

84. Goods in warehouse may be repacked. Damaged parts may be destroyed.

With the sanction of the Director-General, and after such notice given by the respective importers or proprietors and at such times and under such regulations and restrictions as the Director-General shall from time to time require and direct, it shall be lawful in the warehouse to sort, separate, pack, and repack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof; provided that such goods be repacked in the packages in which they were imported, or in such other packages as the Director-General shall permit; and also to draw off any wine or any spirits into reputed quart or pint bottles for exportation only; and also to fill up any cask of wine, beer, or spirits from any other casks of the same, respectively secured in the same warehouse, and also to take such moderate samples of goods as may be allowed by the Director-General with or without entry, and with or without payment of duty,

except as the same may eventually become payable as on a deficiency of the original quantity; and the duty on the surplus, if any, of such goods as may be delivered for home use shall be immediately paid, and such surplus shall thereupon be delivered for home use accordingly; and after such goods have been so separated and repacked in proper or approved packages, the Director-General may, at the request of the importer or proprietor of such goods, cause or permit any refuse, damage, or surplus goods occasioned by such separation or repacking, or at the like request, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

84A. Processing including manufacture or assembly of goods in warehouses.

(1) It shall be lawful for the Director-General in the interest of economic development of the country to permit the processing including manufacture or assembly of goods in any warehouse appointed under section 69 of this Ordinance.

(2) No goods which have undergone any processing including manufacture or assembly in such warehouse may be released for home use or for export without the prior approval of the Director-General.

(3) Where such goods are released from such warehouse for home use the duties there on shall be calculated and paid on that as if such goods had been imported at the time of such release.

(4) Treatment of waste, refuse of goods consumed in manufacture.

Where goods liable to duties have been wasted or have become refuse or have been consumed in the course of processing permitted under subsection (1), the Director-General may remit duties in respect of such part of the goods as represent such waste, refuse or goods consumed as the case may be:

Provided that if such waste or refuse is destroyed subject to such conditions as the Director-General may impose, no duty shall be charged or duty is paid on such waste or refuse, as if it had been imported in that form if taken for home use. Provided that if such waste or refuse is destroyed subject to such conditions as the Director-General may impose, no duty shall be charged or duty is paid on such waste or refuse, as if it had been imported in that form if taken for home use.

(5) Conditions, fees and charges.

The Minister may make regulations with regard to the conditions under which a permit to a manufacturer or a sub-contractor referred to in section 84B is to be granted and the fees and charges leviable for such permit.

[S 84A ins by s 46 of Act 83 of 1988.]

84B. Manufacturer permitted to sub-contract under certain conditions.

(1) Any manufacturer permitted to process including manufacture or assembly of goods in any warehouse appointed under section 69 of this Ordinance may sub-contract with another person to process including manufacture or assembly in any work shop or premises which is not appointed a warehouse under this Ordinance if the Director-General is satisfied—

(i) that the said workshop or premises is registered with him for the purpose of such work;

(ii) that the workshop or premises has the capacity to undertake the required sub-contracting work;

(iii) that there is a written agreement between the manufacturer and the person with whom the sub-contracting has been made, and that the agreement has been approved by him.

(2) Where any manufacturer is permitted to process by means of sub-contracting as provided for in subsection (1), the provisions of section 84A shall, *mutatis mutandis*, apply to any goods so processed.

(3) Notwithstanding that the manufacturer sub-contracts as aforesaid, the manufacturer shall be liable, in addition to any other liabilities under this Ordinance including forfeitures and penalties, for any duties or other charges which may occur due to loss or damage of the material or finished products outside the warehouse of the manufacturer during such sub-contracting operations.

[S 84B ins by s 46 of Act 83 of 1988.]

85. Entry for exportation re-warehousing or home use.

No warehouse goods shall be taken or delivered from the warehouse, except upon due entry, for exportation, or to be shipped as stores, or to be removed from one warehouse to another, or on payment of the full duties thereon for home use subject to such conditions as the Director-General may prescribe.

[S 85 subs by s 47 of Act 83 of 1988.]

86. Bill of entry for warehoused goods delivered for home use. Duties to be paid according to landing account, except in certain cases when duties are to be charged on ascertained quantity on delivery, unless deficiency has been caused by improper means.

Upon the entry of any goods to be cleared from the warehouse for home use, the person entering such goods shall deliver a bill of entry, and duplicates thereof in like manner and form and containing the same particulars as hereinbefore required on the entry of goods to be delivered for home use on the landing thereof, as far as the same may be applicable, and shall at the same time pay down to the proper officer of Customs the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the landing waiter or other proper officer on the first entry and landing thereof, except as to the following goods, namely:-rice, wine, beer, spirits, and sugar, the duties whereon when cleared from the warehouse for home use shall be charged upon the quantity of such goods ascertained by weight, measure, or gauge at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure, or gauge ascertained on landing and first examination of any such last-mentioned goods and that ascertained at the time of actual delivery has been caused by illegal or improper means, in which case the proper officer of Customs shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.

87. Value of goods for allowance on deficiencies to be estimated by officers of Customs.

When any deficiency occurs in goods chargeable to pay duty according to the value thereof, the value thereof shall be the value of the like sort of goods, estimated by the officers of Customs.

[S 87 subs by s 17 of Law 35 of 1974.]

88. Deficiencies on goods exported not to be charged with duty unless fraudulent.

No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation, unless the officers of Customs have reasonable ground to suppose that such deficiency, or any part thereof, has arisen from illegal abstraction.

89. On entry outward, bond for due shipment and landing to be given when required.

Before any warehoused goods subject to duties of Customs shall be permitted to be exported, the exporter or his agent shall where required by the Director-General having regard to the demand for, and the value of, goods to be exported, give security by bond in such sum as may be determined by him subject to such conditions as may be prescribed by such Director-General having regard to the nature and the value of the goods to be shipped and exported that such goods shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards or otherwise accounted for, to the satisfaction of the Director-General, and shall, if required, produce a certificate under the hands of the proper officers at the port of landing, of the due landing of the goods at such port as aforesaid.

[S 89 subs by s 48 of Act 83 of 1988.]

90. General bond for warehoused goods exported.

The Director-General may, in such instances as he shall deem advisable, accept, in lieu of separate bonds as aforesaid, from the known resident exporters and shippers of goods, general bonds with one or two sufficient securities or such other security as the Director-General may approve of, to such an amount as shall be necessary for the due shipment, exportation, and landing at the place for which they are entered outwards of all warehoused goods exported by such persons, but such general bonds shall only be in force for two years and may be revoked and cancelled whenever the Director-General shall see fit.

91. Minister may close bonded warehouse.

It shall be lawful for the Minister, after notice published in the *Gazette*, to direct that after the expiration of twelve months from the date of such notice no goods or merchandise shall be warehoused in any public warehouse or premises, and to convert all or any of such warehouses or premises in use as bonding warehouses at the time of such notice to other purposes of Customs accommodation, and any goods not cleared from such public warehouse by removal to other approved bonding warehouse, or by entry for home consumption or exportation, at the expiration of such notice aforesaid, shall be sold by the Director-General in like manner as is provided for the sale of unclaimed goods.

92. Director-General may issue warrants.

The Director-General of Customs may, upon an application in writing by the owner, importer, or consignee of any goods duly warehoused in any warehouse of the Republic, or other place of deposit provided by Government, issue to such owner, importer, or consignee, warrants, under his hand substantially in the form in Schedule D4.

93. Goods transferable by endorsement and deliverable to the holders of warrants.

Such warrants shall be transferable once or oftener by the endorsement of the owner, importer, or consignee of the goods or of the holders of the said warrants, and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof without any endorsement save that of the original grantee. The Director-General shall, upon production and surrender of such warrants, but not otherwise, deliver the goods to the holders of the warrants, on due entry of the goods for home consumption or exportation, and upon payment of all duties and charges due on the said goods.

94. Warrants by private warehouse keepers.

It shall be lawful for the keeper of any bonded warehouse to issue to the owner, importer, or consignee of any goods duly warehoused in his bonded warehouse, warrants substantially in the form in Schedule D4. Such warrants shall be transferable, once or oftener, by the endorsement of the owner, importer, or consignee of the goods, or of the holders of the said warrants; and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof without any endorsement save that of the original grantee. The keeper of such warehouse shall, upon production and surrender of such warrants but not otherwise, deliver the goods to the holders of the warrants on due entry of the goods for home consumption or exportation, and upon payment of all duties and charges due on the said goods: Provided that it shall not be lawful for the keeper of any bonded warehouse to issue warrants for goods in which he has any share or interest as owner, importer, or consignee.

95. No goods warehoused in Government or bonded warehouses to be delivered save on surrender of the warrant, and no warrant once surrendered to be reissued.

No goods warehoused in any warehouse of the Republic or other place of deposit provided by Government, or in any bonded warehouse, shall be delivered out of such warehouse of the Republic or other place of deposit provided by Government, or bonded warehouse, except upon surrender of the warrant in which such goods are enumerated, to the Director-General of Customs or to the keeper of such bonded warehouse, as the case may be; every such warrant after being so surrendered, shall be defaced, and no such warrant after being so surrendered, shall be reissued:

But where partial delivery taken, a new warrant may be issued in respect of the goods remaining undelivered:

Provided that whenever the holder or holders of any warrant issued under section 92 or section 94 or under this section, shall be desirous of obtaining delivery of a part only of the goods enumerated in such warrant, it shall be lawful for the Director-General of Customs or keeper of the bonded warehouse, as the case may be, upon the surrender of such warrant, to issue to the holder or holders by whom the same was surrendered a new warrant in respect of the goods remaining undelivered.

96. Penalty on infringement of section 95.

Any person who shall deliver any goods warehoused as mentioned in section 95, out of the place in which the same shall have been so warehoused, except upon the surrender, as therein mentioned, of the warrant in which such goods are enumerated, and any person who shall reissue any warrant

surrendered as aforesaid, shall be deemed guilty of an offence, and liable on conviction to a fine not exceeding one hundred thousand rupees.

[S 96 am by s 49 of Act 83 of 1988.]

97. Stamp duty on warehouse warrants fixed at fifty cents.

Every warrant, whether issued by a Director-General of Customs or by the keeper of a bonded warehouse, shall bear a stamp duty of fifty cents, and such duty shall be denoted by adhesive stamps. Such warrants shall be liable, in all matters relating to stamp duty, to the provisions of the enactments relating to stamp duties, so far as the same shall be applicable thereto.

98. State when liable to make compensation for loss in any warehouse of the Republic.

Provided that the holder of any warrant issued by the Director-General of Customs shall have no claim on the State to compensation for loss of any goods by fire, theft, damage, or other cause, except such loss be caused by the willful waste, spoil, destruction or criminal breach of trust, on the part of any officer of Customs, and such officer shall have been prosecuted to conviction within one year from the date of such willful waste, spoil, destruction or criminal breach of trust. The holder of a State not liable warrant issued by a bonded warehouse for loss in any keeper shall have no claim on the State to warehouse compensation on any ground or pretext whatsoever.

99. Goods otherwise liable to Customs laws and regulations.

Provided, further, that the Director-General of Customs shall be in no way answerable for the correctness of the particulars of the contents or value of the goods specified in any warrant issued as aforesaid, and that the said goods shall be in every respect liable to the provisions of the laws and regulations relating to the Customs in force at the time such goods shall be in deposit at the warehouse of the Republic or other place of deposit provided by Government.

100. Penalties.

Any keeper of a bonded warehouse who shall fraudulently issue a warrant for goods not in his warehouse, or who shall fraudulently issue two or more warrants for the same goods, or who shall fraudulently issue warrants for goods in which he has any share or interest as owner, importer, or consignee, or who shall aid and assist any other person to do so, and any keeper of such warehouse or other person who shall in any way use any warrant granted under the provisions of this Ordinance for the purposes of defrauding or injuring any person, company, or corporation, shall be guilty of an offence, and be liable to imprisonment with or without hard labour not exceeding three years, and in addition thereto, at the discretion of the Judge, to a fine not exceeding one hundred thousand rupees.

[S 100 am by s 50 of Act 83 of 1988.]

100A. Warehousing of duty paid goods and goods of local origin.

(1) Notwithstanding the provisions of Part II of this Ordinance, it shall be lawful for the Director-General to permit in any warehouses appointed under section 69 and in which processing has been permitted under section 84A of this Ordinance warehousing of goods imported and upon which duty had been previously paid or goods of local origin, for use, along with goods warehoused without payment of duty on first entry, for the purpose of processing including manufacture, assembly or packing of goods under such regulations as may be prescribed by the Director-General.

(2) Any goods found in any such warehouse which is not duly accounted for by the owner of such goods to the satisfaction of the Director-General shall be forfeited.

(3) The provisions of sections 69 to 100 of this Ordinance shall, *mutatis mutandis*, apply to all goods referred to in subsection (1).

[S 100A ins by s 51 of Act 83 of 1988.]

PART XII

GENERAL REGULATIONS

101. Regulations.

(1) The Minister may make regulations in respect of any matter required by this Ordinance to be prescribed or in respect of which regulations are required to be made under this Ordinance and in particular for any of the following purposes:

- (a) for preventing accidents by fire, and as to the lighting or using of candles, fires, and lamps, and as to the smoking of tobacco or herbs within the Customs premises;
- (b) for governing and regulating porters, labourers, cartmen and others carrying goods, or using or driving any animal or vehicle within the Customs premises;
- (c) for preventing damage being done to any goods or property within the Customs premises;
- (d) for prohibiting or regulating the admission of persons to the Customs premises, and for excluding persons therefrom;
- (e) for regulating the conduct of persons within the Customs premises;
- (ee) for prohibiting of importation and exportation of counterfeit trade mark goods or pirated copyright goods or any other goods in contravention of the provisions of the Intellectual Property Act, No. 36 of 2003.

[S 101(1)(ee) ins by s 206 of Act 36 of 2003.]

(f) for prescribing documents that should be furnished for the computation of Customs duties for any goods and for regulating the examination of such goods for the levy of Customs duties;

[S 101(1)(f) am by s 6(a) of Act 2 of 2003.]

(g) for prescribing new forms for the warrants issued under sections 92 to 100, both inclusive, and the manner in which such warrants are to be defaced; and

[S 101(1)(g) am by s 6(b) of Act 2 of 2003.]

(h) for assessment of value for the Customs purposes under section 51.

[S 101(1)(h) ins by s 6(c) of Act 2 of 2003.]

and such regulations shall be published in the *Gazette*. Any person who shall disobey the same shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine, not exceeding twenty five thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment. The Director-General may, having regard to the circumstances in which the offence was committed, compound an offence under this section on payment of an amount equal to one fifth of the fine imposable for such offence. The compounding of an offence under this section shall have the effect of an acquittal.

(2) In this section and in any regulation made thereunder, "Customs premises" means the Customs premises as defined from time to time by the Director-General by Notification in the *Gazette*.

[S 101 subs by s 52 of Act 83 of 1988.]

102. Goods of dangerous quality.

If the owner, consignee, or person having charge of any tar, pitch, spirituous liquor, turpentine, oil, aqua fortis, lucifer matches, or any other article- of a combustible or dangerous nature whatsoever, shall suffer the same to remain in the Customs premises beyond the space of five hours after he shall have been required by any officer of Customs to remove the same therefrom, then and in every such case every person so offending shall for every such offence be liable to a fine not exceeding fifty rupees and not less than ten rupees for every hour that any of the said articles or goods shall be or remain in the place aforesaid after the expiration of the said five hours.

103. Special regulations for ships.

(1) Whereas it is desirable to facilitate the dispatch of ships, it shall be lawful for the Minister to make special regulations from time to time relating to the entry inwards and outwards of such ships, and the landing, shipping, and transhipping of goods by them, and such regulations when duly published, shall have the same effect in law as if they formed part of this Ordinance.

(2) The regulations made under the foregoing subsection may, amongst other matters—

- (a) prescribe the fees and charges payable by persons requiring the services of any officer of Customs outside such hours as the Director-General with the sanction of the Minister may from time to time prescribe, or on any day when the Custom-house is closed for business;
- (b) provide for the collection or summary recovery of such fees and charges and the disposal thereof upon collection or recovery; and
- (c) require the furnishing of security in money for the payment of any duties, dues, fees or charges payable in respect of goods imported or exported before the presentation of the bills of entry for such goods.

103A. Container Freight Stations or Inland Clearing Depots for Customs clearance of cargo.

(1) The Director-General may, with the approval of the Minister, by order made from time to time, for such periods and subject to such terms and conditions as may be prescribed, establish Container Freight Stations and Inland Clearance Depots for the purposes of this Ordinance.

(2) The Director-General may prescribe having regard to the nature and value of the goods to be stored therein the amount of security to be furnished by the owner of a Container Freight Station or Inland Clearance Depot established under this section.

(3) The Director-General may, with similar approval and subject to the terms and conditions referred to in subsection (1), at any time for reasonable cause revoke any order made under subsection (1) or vary the terms and conditions of any such order.

[S 103A ins by s 53 of Act 83 of 1988.]

103B. Regulation of the movement of containers, containerised cargo, cargo intended for containerisation and security to be furnished.

(1) The Minister may make regulations relating to—

(a) documentation, storage, movement, examination, sealing, security and all other matters pertaining to containers, containerised cargo and cargo intended for containerisation;

(b) the amount of security to be furnished by persons engaged in the transport of containers, containerised cargo, and cargo intended for containerisation.

(2) Penalties for violation of conditions.

If any person contravenes or fails to comply with any regulations made under subsection (1) or any requirement imposed by or under such regulations, that person and the person for the time being in charge of the goods shall in each case forfeit either treble the value of the goods or be liable to a penalty not exceeding twenty-five thousand rupees at the election of the Director-General.

(3) All other provisions of the Customs to apply.

All other provisions of this Ordinance and the rules and regulations made there under in regard to the landing and clearance inwards or shipment and clearance outwards of cargo, shall, *mutatis mutandis*, apply to containers, containerised cargo and cargo intended for containerisation.

[S 103B ins by s 53 of Act 83 of 1988.]

104. Transport of goods overland under band.

(1) No goods imported or to be exported from any container freight station, bonded warehouse or Customs premises after the goods have been sealed by Customs, which are liable to duties and other charges under this Ordinance and on which such duties and other charges have not been paid to the Customs, shall be transported over land from one point to another, other than by a transporter registered with the Director-General and who has furnished security by bond for the payment of such duties and other charges.

(2) Any person who transports goods in contravention of the provisions of this section shall be guilty of an offence and be liable to a penalty not exceeding one hundred thousand rupees.

[S 104 subs by s 54 of Act 83 of 1988.]

105. Goods lodged in warehouse of the Republic liable to claims for freight.

(1) All goods or merchandise which shall be lodged in any warehouse of the Republic under the provisions of this Ordinance, not being goods seized as forfeited, shall, when landed, continue and be subject and liable to such and the same claim for freight and general average in favour of the master, owner, or agent of the respective ship, or of any other person interested in the freight or general average from which such goods or merchandise shall have been so landed, as such goods or merchandise respectively were subject and liable to before the landing thereof.

(2) Director-General required to detain goods freight.

The Director-General is hereby authorised and required, upon due notice in writing given to him by such master, owner, agent, or other person as aforesaid, specifying the particulars of the goods and requiring the goods or any portion thereof to remain subject to a lien for freight, primage, general average, or other charges, to detain and keep in the warehouse of the Republic the whole or such

portion of such goods, not being seized as forfeited, until he receives notice in writing that the said charges are paid.

(3) Director-General not bound to see to validity of any lien.

The Director-General shall not be bound to see to the validity of any lien claimed by any master, owner, agent, or other person as aforesaid.

(4) Power to sell goods not cleared in thirty days.

If any goods or merchandise deposited as aforesaid be left in any Customhouse or warehouse of the Republic for a longer period than thirty days from the date of landing, such goods shall, after public advertisement, be sold by public auction either for home use or exportation, and the proceeds thereof applied first to the payment of the duties due thereon, the warehouse rent, and expenses of sale, then to the payment of the freight, primage, general average, and charges claimed as aforesaid, and the overplus, if any, shall be paid to the proprietor of the goods; but if there be no such proprietor, such overplus shall be paid into the Treasury, and if not claimed within one year from the date of the sale of such goods, such overplus shall be brought to account as revenue:

Perishable goods may be sold at once.

Provided that goods of a perishable nature or in a damaged condition may, after public advertisement, be sold forthwith, and if not saleable may be destroyed, and neither the proprietor nor the claimant of the freight, primage, general average, and charges as aforesaid, due on any goods sold or destroyed as aforesaid, shall have any claim on the Director-General for or on account thereof.

(5) The Director-General shall not be required to Livestock. detain for freight, primage, general average, or charges as aforesaid horses, cattle, or other livestock, unless proper provision be made by the person detaining the same for the feeding, care, and housing of such livestock.

106. Bonds to be taken by Director-General.

All bonds relating to the Customs, required to be given in respect of goods or ships shall be taken by the Director-General for the use of the State, and after the expiration of three years from the date thereof, or from the time, if any, limited therein for the performance of the condition thereof, every such bond upon which no prosecution or suit shall have been commenced shall be void, and may be cancelled and destroyed.

107. Goods being moved out of any ship or to any ship or out of any warehouse if not duly entered to be forfeited.

If any goods, packages, or parcels shall be landed, taken or passed out of any ship, or out of any warehouse, or be laden, taken on board or passed on to any ship, not having been duly entered, the same shall be forfeited: Provided always that no entry shall be required in respect of the baggage of passengers as denned by the regulations made under section 107A.

[S 107 subs by s 55 of Act 83 of 1988.]

107A. Regulation of passengers' baggage inwards and outwards.

(1) Any passenger arriving in Sri Lanka may be searched and his baggage landed, examined and delivered by such officers and in accordance with such regulations as the Minister may prescribe by Notification published in the *Gazette*; and if any prohibited, restricted or un Customed goods are found concealed in the baggage of any passenger arriving in Sri Lanka or upon his person or in any place in which they have been put by his direction or with his connivance either before or after landing, the same shall be forfeited, together with the contents of the packages and the packages containing the same.

(2) Any passenger leaving Sri Lanka may be searched and his baggage examined by such officers and in accordance with such regulations as the Minister may prescribe by Notification published in the *Gazette*, and if any prohibited, restricted or un Customed goods are found concealed in the baggage of any passenger leaving Sri Lanka or upon his person or in any place in which they have been put by his direction or with his connivance either before or after embarkation, the same shall be forfeited, together with the contents of the packages and the packages containing the same.

(3) No female passenger shall be searched by any person other than a female duly authorised in that behalf by the Director-General.

(4) Every regulation made by the Minister under this section shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for, approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

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

[S 107A ins by s 56 of Act 83 of 1988.]

108. Goods in any warehouse to be at risk of the owner.

All goods lodged or deposited in any warehouse of the Republic or other place of deposit provided by Government shall be so deposited at the risk of the owner, importer, or consignee, who shall have no claim on the State to compensation for loss by fire, theft, damage, or other cause, except such loss be proved by the prosecution to conviction (within one year from the date at which such willful waste, spoil, destruction, or criminal breach of trust is alleged to have taken place) of the offending party to have been caused by the willful waste, spoil, destruction, or criminal breach of trust of any officer of Customs, and in which case no duty shall be leviable on such goods.

109. Power to sell goods not cleared within thirty days.

All goods left in any warehouse of the Republic or on the Customs premises for a longer period than thirty days, unless permitted to remain by the special permission of the Director-General, shall, after public advertisement, be sold either by auction or tender to answer the duties, warehouse rent, or other charges due thereon, and any overplus shall be paid, if claimed within twelve months from the date of sale, to the owner of such goods, who shall have no further claim touching the same, but if there be no claimant such overplus shall be brought to account as revenue;

Provided that any goods of a perishable nature which shall be left in the warehouse or Customs premises, or in any bonded warehouse, uncleared, may be sold forthwith, or if not saleable may be destroyed, and the proprietor of any goods sold or destroyed as aforesaid shall have no further claim for or on account thereof.

[S 109 am by s 5 of Act 24 of 1991.]

110. Director-General to order removal of goods from one warehouse or Customs premises to another warehouse or place.

(1) If the Director-General considers it expedient to do so for any of the purposes of this Ordinance he may by written order require any importer of goods to have them removed from the warehouse or other place in the Customs premises where they have been deposited to such other warehouse or place within the Customs premises as may be specified in the order, within the period specified therein, and to be present on the date and time, if any, specified in the order for the due examination of the goods.

(2) Any person who, without reasonable cause, fails to comply with an order issued to him under subsection (1) shall be liable to a penalty not exceeding ten thousand rupees.

[S 110 subs by s 57 of Act 83 of 1988.]

111. Government may appoint ports and quays and alter or annul the same. Existing ports to continue.

The Minister may by Order appoint any place to be a haven, creek, port, or warehousing port in Sri Lanka and declare the limits thereof, and appoint proper places within the same to be legal quays for the lading and unloading of goods, and declare the bounds and extent of any such quays, or annul the limits of any port, haven, creek, or legal quay already appointed, or to be hereafter appointed, and declare the same to be no longer a port, warehousing port, haven, creek, or legal quay; and all ports, warehousing ports, havens, and creeks, and the respective limits thereof, and all legal quays appointed, set out, and existing as such at the time of the passing of this Ordinance shall continue to be such ports, havens, creeks, and quays until annulled or altered as aforesaid.

112. Director-General to appoint wharves

The Director-General may from time to time, by any order under his hand, and under such restrictions and regulations as he shall see fit, appoint proper places for the lading and unloading of goods.

113. Officers may refuse any person to do any act as master of ship, unless his name is endorsed on registry.

The officers of Customs may refuse to allow any person to do any act as master of any British ship, unless his name is inserted in or endorsed upon the certificate of registry of such ship as being the master thereof.

114. When ship's agent may act for master.

Anything which a master is required or empowered to do under this Ordinance may, with the express or implied consent of such master and with the approval of the Director-General of Customs, be done by a ship's agent.

115. Director-General to grant licences to Customs House Agents.

(1) The Director-General may and he is hereby authorised to grant on payment of the prescribed fee, licences in such form and manner and subject to such terms and conditions as are specified in Schedule G to this Ordinance to such person who satisfy the requirements set out in that Schedule, to act as Customs House Agents for transacting business which shall relate to the entry or clearance of any ship, or of any goods, or of any baggage, in any of the port's or places in Sri Lanka and only persons so licensed shall act as agents as aforesaid, and the Director-General may cancel or revoke for fraud or misconduct or for breach of any terms and conditions of any licence so granted to any such person.

(2) Every licence granted under this section shall be valid for a period of one year and may be renewed by the Director-General, at the end of the period on payment of the prescribed fee.

(3) Employees deemed to be agents.

Any employee of an importer or exporter shall be deemed to be a Customs House Agent for the purposes of this section, and shall not be permitted to transact business as aforesaid, unless he holds a licence under subsection (1).

[S 115 subs by s 58 of Act 83 of 1988.]

115A. Importers and exporters to be registered with Customs.

(1) It shall be lawful for the Director-General for the purpose of facilitating the discharge of his functions under this Ordinance to require every importer and exporter of goods to register with the Customs, giving such particulars as may be required by him.

(2) No goods shall be imported into or exported out of Sri Lanka except by a registered importer or exporter.

(3) In this section, importer shall mean a person who imports goods either for himself or on behalf of another for a commercial purpose and exporter shall mean a person who exports goods either in his name or on behalf of another for a commercial purpose.

[S 115A ins by s 59 of Act 83 of 1988.]

4116. No vessel to be hauled on shore without permission. Boat to be removed from wharf when directed. Penalty.

No ship or boat shall be hauled on shore at any public wharf, quay, beach, or landing place in Sri Lanka, for the purpose of repairs or otherwise, without permission from the Director-General, and no boat shall remain alongside of any wharf or landing place after the owner or person in charge shall be directed to remove the same by the proper officer of Customs; and any person hauling any ship or boat on shore without such permission as aforesaid, and the owner or person in charge of any boat refusing or neglecting to remove the same when ordered as aforesaid shall be liable to a fine not exceeding one hundred rupees, and such ship or boat may be detained by the Director-General until payment of the fine imposed.

[S 116 am by s 2 of Law 35 of 1974.]

117. No timber to be left on wharf for more than one day.

If any timber or other heavy or bulky articles be left on any public quay, jetty, wharf, beach, or landing place in Sri Lanka for more than one day, so as to interrupt or hinder the free use thereof, it shall be lawful for the Director-General, after twelve hours notice in writing given to the owner thereof or to his agent, to remove the same; and such owner shall be liable to a penalty not exceeding one hundred rupees and such goods shall not be delivered up to the owner thereof until after payment of the said penalty, together with the charges attending the removal of the same; and if such goods shall not be removed within six days after notice given as aforesaid, it shall be lawful for the Director-General to sell the same by public auction, and to deduct from the proceeds the amount of such penalty and all charges which may have been incurred on account of such goods, and the surplus, if any, shall be paid to the owner.

[S 117 am by s 2 of Law 35 of 1974.]

118. Officers may board ships hovering within territorial waters and bring them into port.

It shall be lawful for the officers of Customs to go on board any ship in any port or place in Sri Lanka or hovering within the territorial waters of Sri Lanka and to rummage and search all parts of such ship for prohibited and un Customed goods, and freely to stay on board such ship so long as such ship remains in such port or place or within such territorial waters; and if any such ship is bound elsewhere, and continues so hovering for the space of twenty-four hours after the master has been required to depart, it shall be lawful for the officers of Customs to bring such ship into port and to search and examine her cargo, and to examine the master touching the cargo and voyage; and if there are any goods on board prohibited to be imported into Sri Lanka, and if the master does not truly answer the questions which are demanded of him on such examination, he shall forfeit a sum not exceeding one hundred thousand rupees.

[S 118 subs by s 18 of Law 35 of 1974; am by s 60 of Act 83 of 1988.]

119. Making false declaration. Signing false documents and untruly answering questions. Counterfeiting and using false documents.

If any person shall make and subscribe any declaration, certificate, or other instrument required by this Ordinance to be verified by signature only, the name being false in any particular; or if any person shall make or sign any declaration made for the consideration of the Director-General or the proper officer of Customs on any application presented to him the same being untrue in any particular; or if any person required by this Ordinance or any other enactment relating to the Customs to answer questions put to him by the officers of Customs shall not truly answer such questions; or if any person shall counterfeit, falsify, or wilfully use when counterfeited or falsified, any document required by this Ordinance or any enactment relating to the Customs, or by or under the directions of the Director-General or any instrument used in the transaction of any business or matter relating to the Customs, or shall fraudulently alter any document or instrument, or counterfeit the stamp, seal, signature, initials, or other mark of, or used by the officers of the Customs for the verification of any such document or instrument, or for the security of goods, or any other purpose, in the conduct of business relating to the Customs, every person so contravening shall be liable to forfeit a sum not exceeding one hundred thousand rupees, and any goods; including currency in any form, in relation to which the document or statement was made shall be liable to forfeiture:

Provided always that this penalty shall not attach to any particular contravention for which any other penalty shall be expressly imposed by any law in force for the time being.

[S 119 subs by s 61 of Act 83 of 1988.]

120. Bond entered into with the Director-General for the due performance of anything relating to the Customs, to be valid in law.

And whereas it frequently occurs that certain indulgences are granted to merchants and others by the Director-General of Customs on bond being given for the security of the revenue, and as doubts may arise whether such bonds would in law be valid:

It is therefore enacted and declared that in all cases where bonds shall be entered into with the Director-General of Customs for the due performance of any order, matter, or thing relative to the

Customs, such bonds shall be valid in law, and upon breach of any of the conditions thereof may be sued and proceeded upon in like manner as any other bond entered into by virtue of this Ordinance.

121. Export of Naval, Military, and air stores may be prohibited.

The Minister may by Order published in the *Gazette* prohibit either absolutely or subject to such restrictions and conditions as he may in his discretion determine, the exportation or the carriage coastwise of all or any of the following goods, namely—
arms, ammunition and gunpowder, Naval, Military, and air stores and any articles which the Minister shall Judge capable of being converted into or made useful in increasing the quantity of Naval, Military or air stores, provisions, or any sort of victual which may be used as food by man; and if such goods shall be exported from Sri Lanka or carried coastwise in contravention of such prohibition or otherwise than in accordance with such restrictions and conditions, or be water-borne to be so exported or carried, such goods may be seized and shall be forfeited.

122. Unauthorised persons not permitted to make entries.

Every person who shall make or cause to be made an entry inwards or entry outwards of any goods, not being duly authorised thereto by the proprietor or consignee or exporter of such goods, shall for every such offence forfeit a sum not exceeding one hundred thousand rupees.

[S 122 am by s 62 of Act 83 of 1988.]

123. Samples.

It shall be lawful for the Director-General to authorise the officers of Customs to take samples of goods for the purpose of ascertaining the duties payable on such goods or for any other purpose relative to the Customs, and such samples shall be accounted for in such manner as the Director-General may direct.

123A. Drawing of samples on goods cleared out of Customs control.

Where goods imported have been cleared out of Customs, and the Director-General deems it necessary for any Customs purpose to examine samples of the said goods and authorises the drawing of samples thereof, the importer or the person for the time being in charge of the place or premises where the goods are kept or stored shall hand over to the Director-General or other Customs officer authorised in writing by the Director-General in that behalf a sample or samples proved to the satisfaction of the Director-General as being authentic and representative of the said goods, provided the sample or samples are demanded within thirty days from the date such goods have been cleared from the Customs. If the samples are not handed over within three working days of the demand therefor, the Director-General or other Customs officer authorised in writing by the Director-General in that behalf shall have the power to enter, and draw samples from, the premises where the goods may be stored.

[S 123A ins by s 63 of Act 83 of 1988.]

124. Director-General may refuse clearance.

The Director-General may refuse to grant clearance to any ship until the owner, agent, or master of that ship, or some other person, shall have paid all port dues, fees, fines, penalties, or charges to which such ship or the owner or master of such ship in respect thereof shall be liable under this Ordinance or any other enactment:

Provided such port dues, fees, fines, penalties, or charges shall have been incurred during her present voyage inwards or outwards.

PART XIII

SMUGGLING, SEIZURES, AND PROSECUTIONS GENERALLY

125. Smuggling, seizures, and prosecutions generally. Forfeiture of ship to include tackle.

All goods and all ships and boats which by this Ordinance are declared to be forfeited shall and may be seized by any officer of the Customs; and such forfeiture of any ship or boat shall include the guns, tackle, apparel, and furniture of the same, and such forfeiture of any goods shall include all other goods which shall be packed with them, as well as the packages in which they are contained;

and all carriages or other means of conveyance, together with all horses and all other animals, and all other things made use of in any way in the concealment or removal of any goods liable to forfeiture under this Ordinance, shall be forfeited.

125A. Inclusion of prohibited goods in Schedule B of Customs Ordinance.

(1) The importation of counterfeit trade mark goods or pirated copyright goods or any other goods in contravention of the provisions of the Intellectual Property Act, No. 36 of 2003 (hereinafter referred to as the "Act") shall be prohibited and such goods shall be included among the goods the importation of which, are prohibited under section 43 of the Ordinance and included in Schedule B of the Ordinance as prohibited goods.

(2) The exportation of the goods referred to in subsection (1) of this section shall be prohibited and such goods shall be included among the goods the exportation of which, are prohibited as if they were referred to in section 44 of the Ordinance and included in Schedule B of the Ordinance as prohibited goods.

(3) Notwithstanding anything to the contrary in any other law, prohibited goods referred to in subsections (1) and (2) of this section, shall be disposed of outside the channels of commerce or if such disposal damages the interests of the owner of any right protected under the Act, be destroyed.

(4) "Counterfeit trade mark goods" mean any goods including packaging, bearing without authorisation a trade mark which is identical to a trade mark validly registered in respect of such goods or which cannot be distinguished in its essential aspects from such a trade mark, and which thereby infringes the rights of the owner of the trade mark recognised by the Act.

(5) "Pirated copyright goods" mean any goods which are made without the consent of the copyright holder or person duly authorised by the copyright holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right by the Act.

[S 125A ins by s 207 of Act 36 of 2003.]

125B. Suspension of certain goods by Customs Authorities.

(1) A right holder, who has valid grounds to believe that the importation of counterfeit trade mark or pirated copyright goods or of any other goods in contravention of the right holder's rights under the Act is taking place, may make an application in writing to the Director-General of Customs requiring him to suspend of the release of such goods into free circulation.

(2) A right holder who makes an application under subsection (1) shall provide adequate evidence to satisfy the Director-General of Customs that there is a, *prima facie*, case of infringement of the right holder's rights under the Act and supply a sufficiently detailed description of the goods to make them readily recognisable by any officer of the Customs.

(3) —

(a) The Director-General of Customs shall have the power to require an applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent any abuse;

(b) Where pursuant to an application made under subsection (1), the Director-General of Customs suspends the release of any goods into free circulation, he shall forthwith cause the importer and the applicant to be promptly notified the suspension.

(4) If the Director-General of Customs fails to receive any notice regarding the institution of proceedings in respect of the of release of any goods suspended under subsection (3), within a period not exceeding ten working days after the applicant has been informed of the suspension as provided for in subsection (3), he shall cause the goods to be released, provided all other conditions for importation or exportation have been complied with.

(5) Where pursuant to an application made under subsection (1), the Director-General of Customs has suspended the release of any goods into free circulation and the period referred to in subsection (4) has expired without the granting of any provisional relief by a Court, and provided that all other conditions for importation have been complied with, the owner, importer or consignee of such goods shall be entitled to have such goods released.

(6) Notwithstanding anything contained in the preceding provisions of this section, where the suspension of the release of any goods is carried out or continued in accordance with an order of

court, the provisions of subsection 4 of section 170 of Intellectual Property Act, No. 36 of 2003, shall apply.

(7) The court shall have the power to order the applicant to pay the importer, the consignee and the owner of the goods, appropriate compensation for any harm caused to them through the wrongful detention of goods or through the detention of goods released pursuant to the preceding provisions of this section.

(8) Without prejudice to the protection of confidential information, the Court shall have power to give the right holder sufficient opportunity to have any goods detained by the Customs authorities inspected in order to substantiate the right holder's claims. The Court shall in addition have power to give the importer an equivalent opportunity to have any such goods inspected.

(9) Without prejudice to other rights of action open to the right holder and the defendant, the Court shall have the power to order the destruction or disposal of any infringing goods in accordance with the principals set out in section 170 of Intellectual Property Act, No. 36 of 2003. In regard to counterfeit trade mark goods, the Court shall not other than in exceptional circumstances allow the re-exportation of the infringing goods in an unrelated state or subject them to a different Customs procedure.

(10) The provisions of sections 125A and 125B shall not apply to small quantities of goods of a non-commercial nature contained in a traveller's personal luggage or forwarded in small consignments.

(11) In this section, the expressions "counterfeit trade mark goods" and "pirated copyright goods" shall have the same meanings as are assigned to them in section 125A.

[S 125B ins by s 207 of Act 36 of 2003.]

126. Stoppage, inspection, and search of vehicles suspected to be transporting smuggled goods.

(1) Where any officer of Customs, or any peace officer or excise officer acting in aid or assistance of any officer of Customs, has reason to suspect that smuggled goods are being transported or removed in any vehicle of any description whatsoever, it shall be lawful for such officer—

(a) to give such orders, directions or signals, or to use such devices, or to take such other measures, as may be necessary to stop the vehicle or to cause it to be halted; and

(b) to inspect and search the vehicle.

(2) Where the Director-General of Customs has reason to suspect that any road is being used by vehicles which transport or remove smuggled goods, he may erect or cause to be erected across the road or any part thereof a barrier or barriers of such nature and description as to him may seem necessary for the purpose of stopping vehicles using that road or causing such vehicles to be halted.

(3) Where any barrier has been erected under subsection (2) across any road or any part thereof, it shall be lawful for any officer of Customs or for any peace officer or excise officer acting in his aid or assistance—

(a) to give such orders, directions or signals as may be necessary to cause any vehicle of any description whatsoever using such road to stop or to be halted at such barrier; and

(b) to inspect and search every vehicle stopped or halted at such barrier, for the purpose of ascertaining whether any smuggled goods are being transported or removed in such vehicle.

(4) Where any order, direction or signal is given under any of the preceding provisions of this section for the purpose of stopping any vehicle, the driver or other person for the time being in charge of such vehicle shall forthwith stop the vehicle or cause it to be halted in accordance with such order, direction or signal; and any driver or other person who fails or refuses to comply with such order, direction or signal shall be guilty of an offence and liable on conviction thereof to a fine not exceeding one hundred thousand rupees.

[S 126(4) am by s 64 of Act 83 of 1988.]

(5) Neither the Director-General of Customs, nor any other officer of Customs, nor any peace officer or excise officer acting in aid or assistance of any officer of Customs, shall be liable to any action or prosecution, whether civil or criminal, by reason of the erection of any barrier, or the stoppage, inspection or search of any vehicle, or of any other act or thing done in pursuance of the powers

conferred by the preceding provisions of this section, notwithstanding that smuggled goods may not in fact be found in any vehicle which is stopped, inspected or searched as hereinbefore provided.

(6) In this section—

(a) "peace officer" has the same meaning as in the Code of Criminal Procedure Act;

(b) "excise officer" has the same meaning as in the Excise Ordinance.

127. Arrest of persons reasonably suspected of an offence under the Ordinance.

Every offence under this Ordinance shall be deemed to be cognisable within the meaning of the Code of Criminal Procedure Act, and any person against whom a reasonable suspicion exists that he has been guilty of any such offence may be arrested in any place either upon land or water by any officer of Customs or other person duly employed for the prevention of smuggling. Every person so arrested shall with all convenient dispatch, be taken before the nearest Director-General of Customs to be dealt with according to law.

127A. Persons arrested to be produced before a Magistrate under certain circumstances.

Where a Director-General is of opinion that a person arrested and produced before him in terms of section 127 for an offence under this Ordinance is a person capable of interfering with the investigation or that the nature of the offence is such that it is desirable to keep that person in custody for the proper investigation of the offence for more than twenty four hours, he shall produce such person before a Magistrate.

[S 127A ins by s 65 of Act 83 of 1988.]

127B. Access to persons in custody for purpose of investigations.

Notwithstanding anything in any other law, a Customs officer conducting an investigation under this Ordinance in respect of any person arrested under section 127 and kept in custody under section 127A, shall have the right to access to such person and the right to take such person during reasonable hours, to any place for the purpose of investigation.

[S 127B ins by s 65 of Act 83 of 1988.]

127C. Power to release on bail to be vested in High Court.

No person suspected or accused of an offence under this Ordinance in respect of any goods the value of which exceeds one million rupees, shall be released on bail except by the High Court, in exceptional circumstances. The power conferred on the High Court by this section shall be exercised by the Judge of the High Court holden in the Zone within which the accused resides or the Judge of the High Court holden in the Zone within which the offence is alleged to have been committed.

[S 127C ins by s 6 of Act 24 of 1991.]

128. Power to enter and search certain premises and seize certain goods and documents.

(1) The Director-General or any officer of Customs authorised in that behalf in writing by the Director-General may—

(a) at all reasonable hours by day or night enter and search any building or place in which he suspects there are—

(i) any un Customed goods,

(ii) any goods enumerated in the table of prohibitions and restrictions in Schedule B1 and imported or brought into the Island contrary to the prohibitions and restrictions referred to in that Schedule, or

(iii) any books of accounts or other documents containing any evidence relating to an offence under this Ordinance which, or which he suspects, has been or is being committed;

(b) break open any door, vault, chest, trunk, package or other place of storage which he may consider reasonably necessary to break for the purpose of exercising his powers under the preceding provisions of this subsection; and

(c) where he discovers any such goods, books or documents, seize and store them in a place of security selected by the Director-General.

(2) The Director-General or any officer of Customs referred to in subsection (1) may request any person in charge or occupation of any building or place specified in paragraph (a) of that subsection to assist the Director-General or such officer to enter and search that building or place in the exercise of the powers of the Director-General or such officer under that subsection, and if such person when so requested fails to assist the Director-General or such officer, he shall be guilty of an offence.

(3) If any person obstructs the Director-General or an officer of Customs referred to in subsection (1) in exercising any power under that subsection, he shall be guilty of an offence.

(4) A person who is guilty of an offence under subsection (2) or subsection (3) shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

[S 128 subs by s 2 of Act 25 of 1958; 128(4) am by s 66 of Act 83 of 1988.]

128A. Power to enter for the purpose of audit or examination or records.

(1) The Director-General or any officer of Customs authorised in that behalf in writing by the Director-General may—

(a) at all reasonable, hours of the day or night enter any building or palace where records are kept in accordance with section 51B in audit of examine such records on any matter pertaining to Customs either in relation to specific transactions or to the adequacy and integrity of the manual or electronic systems by which such records are created and stored;

(b) open and examine any receptacle where any book of account register, record or any other document may be found for the purposes of the preceding provisions of this Ordinance;

(c) examine and take copies of or make extracts from or take possession of any book of account register, other document found in such place or building;

(d) operate any computer found in any building and make copies or take printouts of the whole or part of any entries recorded or stored therein.

(2) Where an officer authorised by the Director-General under subsection (1) of this section takes into his possession any book of account, register, record or other documents from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.

(3) Any book of account, register, record or other document taken into his possession under subsection (1) by any officer may be retained in the possession of such officer for the examination of such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

(4) The Director-General or any authorised officer of Customs may request any person in charge or occupation of any building or place to assist the Director-General or such officer to enter and search that building or place and if such person when so requested fails to assist the Director-General or such officer he shall be guilty of an offence.

(5) Any person who obstructs the Director-General or an officer of Customs in exercising any of his powers under this section shall be guilty of an offence.

(6) A person who is guilty of an offence under subsection (4) or (5) shall be liable to a penalty not exceeding one hundred thousand rupees.

[S 128A ins by s 7 of Act 2 of 2003.]

129. Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring or having custody of such goods, to forfeit treble the value, or one hundred thousand rupees.

Every person who shall be concerned in importing or bringing into Sri Lanka any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not, and every person who shall unship or assist, or be otherwise concerned in the unshipping of any goods which are prohibited, or of any goods which are restricted and imported contrary to such restriction, or of any goods liable to duty the duties for which have not been paid or secured, or who shall knowingly harbour, keep, or conceal, or shall knowingly permit, or suffer, or cause, or procure to be harboured, kept, or concealed, any such goods, or any goods which have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited, or into whose hands and possession any such goods shall

knowingly come, or who shall assist or be concerned in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid, or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of Customs with intent to defraud the revenue of such duties or any part thereof, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or be liable to a penalty of one hundred thousand rupees, at the election of the Director-General.

[S 129 subs by s 19 of Law 35 of 1974; am by s 67 of Act 83 of 1988.]

130. Persons concerned in, exporting prohibited or restricted goods.

Every person who shall be concerned in exporting or taking out of Sri Lanka or attempting to export or take out of Sri Lanka any prohibited goods or any goods the exportation of which is restricted contrary to such prohibition or restriction, whether the same be laden for shipment or not and every person who shall export or attempt to export any goods liable to duty the duties for which have not been paid or secured, or in any manner deal with any goods liable to duties of Customs with intent to defraud the revenue of such duties or any part thereof, or who shall be knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or be liable to a penalty of one hundred thousand rupees at the election of the Director-General.

[S 130 subs by s 20 of Law 35 of 1974; am by s 68 of Act 83 of 1988.]

131. Forfeited ships.

(1) Any ship not exceeding 250 tons tonnage, knowingly used in the importation or exportation of any goods prohibited of import or export, or in the importation, exportation or conveyance, or in the attempted importation, exportation or conveyance, of any goods with intent to defraud the revenue, shall be forfeited.

(2) The owner or master of any ship exceeding 250 tons tonnage, which would be liable to forfeiture under this section if the ship were of less than 250 tons tonnage, shall forfeit a sum not exceeding one hundred thousand rupees, and the ship may be detained on the orders of the Director-General until such sum is paid or until security for its payment is given to the satisfaction of the Director-General.

[S 131(2) am by s 69 of Act 83 of 1988.]

132. If goods removed prior to examination, penalty upon parties concerned in the removal.

Every person who shall remove any goods imported into Sri Lanka from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of Customs, unless under the care or authority of such officer, or who shall remove or withdraw from any quay, wharf, or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer, or so that the same are not duly warehoused, and every person who shall assist or be otherwise concerned in such removal or withdrawal, or shall knowingly harbour, keep or conceal or shall knowingly permit or suffer, or cause or procure to be harboured, kept, or concealed, any such goods, or into whose possession any such goods shall knowingly come, every such person shall forfeit either treble the value thereof, or be liable to a penalty of one hundred thousand rupees, at the election of the Director-General of Customs.

[S 132 subs by s 21 of Law 35 of 1974; am by s 70 of Act 83 of 1988.]

133. Persons assisting in unshipping or harbouring such goods liable to treble the value or one hundred thousand rupees.

Every person who shall assist or be otherwise concerned in the unshipping, landing, or removal, or in the harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of one hundred thousand rupees, at the election of the Director-General of Customs; and the averment in any information to be exhibited for the recovery of such penalty that the Director-General has elected to sue for the sum mentioned in the information shall be deemed sufficient proof of such election, without any other or further evidence of such fact.

[S 133 subs by s 22 of Law 35 of 1974; am by s 71 of Act 83 of 1988.]

134. How value to be ascertained.

In all cases where any penalty, the amount of which is at any time to be determined by the value of any goods, is directed to be sued for under this Ordinance, such value shall be deemed and taken to be according to the rate and price which goods of the like sort or denomination, and of the best quality, bear at such time at the place of importation, and upon which the duties due upon importation have been paid.

135. Goods, vessels liable to forfeiture may be seized by officers. Persons resisting officers or rescuing or destroying goods to prevent seizure, to forfeit one hundred thousand rupees.

All goods, and all ships and boats, and all carriages and all cattle, liable to forfeiture under this Ordinance, shall and may be seized in any place, either by land or water, by any officer of the Customs or police, or by any Grama Seva Niladhari, or by any person employed for that purpose, by or with the concurrence of the Minister, and every person who shall in any way hinder, oppose, molest, or obstruct any officer of the Customs or police, or any Grama Seva Niladhari, or any person so employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, or shall rescue, or cause to be rescued, any goods which have been seized, or shall attempt or endeavour to do so, or shall before or at or after any seizure stave, break, or otherwise destroy any goods to prevent the seizure thereof, or shall rescue the same, then and in any such case the party so offending shall be guilty of an offence, and shall for every such offence forfeit a sum not exceeding one hundred thousand rupees.

[S 135 am by s 72 of Act 83 of 1988.]

136. Goods stopped or taken by Police Officer.

If any goods liable to forfeiture under this Ordinance shall be stopped taken by any Police Officer or Grama Seva Niladhari, such goods shall be conveyed to the Customhouse nearest to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within a reasonable time after the said goods were stopped and taken; and in case any Police Officer or GramaSevaNiladhari stopping such goods shall neglect to have the same conveyed to such Custom-house within a reasonable time, such Police Officer or Grama Seva Niladhari shall forfeit a sum not exceeding one hundred thousand rupees.

[S 136 subs by s 23 of Law 35 of 1974; am by s 73 of Act 83 of 1988.]

137. Officers making collusive seizures, or taking bribes, and persons giving bribes, subject to penalties.

If any officer of the Customs, or any person employed for the protection of the revenue, shall make any collusive seizure, or deliver up, or make any agreement to deliver up, or not to seize any ship, boat, or goods liable to forfeiture under this Ordinance, or shall take any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, every such officer or other person shall forfeit for every such offence a sum not exceeding one thousand rupees, and be rendered incapable of serving the Government of Sri Lanka in any office whatever; and every person who shall give or offer, or promise to give or procure to be given any bribe, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal, or connive at anything whereby the provisions of this Ordinance may be evaded, shall forfeit a sum not exceeding one hundred thousand rupees.

[S 137 am by s 74 of Act 83 of 1988.]

138. Officers may search persons on board or on shore in certain cases.

It shall be lawful for any officer of Customs to go on board any ship which shall be within the limits of any port or airport in Sri Lanka, and search any person on board, and his baggage or other belongings and it shall be lawful for him to search any person who shall have landed from any ship or any person passing or having passed through the Custom house and the baggage or other belongings of such person, provided such officer shall have good reason to suppose that such person shall have any un-customed, restricted or prohibited goods secreted about his person or in his baggage or other belongings; and if any person shall obstruct any such officer in the performance of any such duty, every such person shall be guilty of an offence, and shall be liable on conviction

thereof to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.

[S 138 subs by s 75 of Act 83 of 1988.]

139. Prohibition against the throwing overboard of goods.

If any person throws overboard any goods from a ship for the purpose of guilty of an offence and liable to a fine not exceeding one hundred thousand rupees; and if, in a prosecution for any such offence, it is proved to the satisfaction of the court that goods were thrown overboard while any officer of Customs was on board in exercise of the powers conferred by section 64 or section 118 or section 138 of this Ordinance or in the course of an attempt by an officer of Customs to seize the goods, it shall be presumed unless the contrary is proved that they were so thrown overboard for the purpose of preventing seizure.

[S 139 am by s 76 of Act 83 of 1988.]

140. Before such search the person may require to be taken before a Magistrate or a superior officer of the Customs.

Before any person shall be searched by any such officer as aforesaid it shall be lawful for such person to require such officer to take him before a Magistrate, or before the Director-General or other superior officer of Customs, who shall determine whether there is reasonable ground to suppose that such person has any un Customed or prohibited goods about his person; and if it shall appear to such Magistrate, Director-General, or other superior officer of Customs that there is reasonable ground to suppose that such person has any un Customed or prohibited goods about his person, then such Magistrate, Director-General, or other superior officer of Customs shall direct such person to be searched in such manner as he shall think fit; but if it shall appear to such Magistrate, Director-General, or other superior officer of Customs that there is not reasonable ground to suppose that such person has any un Customed or prohibited goods about his person, then such Magistrate, Director-General, or other superior officer of Customs shall forthwith discharge such person, who shall not in such case be liable to be searched; and every such officer as aforesaid is hereby authorised and required to take such person, upon demand, before any such Magistrate, Director-General, or other superior officer of Customs, detaining him in the meantime:

Provided that no person being a female shall be searched by any other person than a female duly authorised for that purpose by the Director-General of Customs.

141. Penalty on officers for misconduct with respect to search.

If any such officer shall not take such person with reasonable dispatch before such Magistrate, Director-General, or other superior officer of Customs when so required, or shall require any person to submit to be searched by him, not having reasonable ground to suppose that such person has any un Customed or prohibited goods about his person, such officer shall forfeit and pay a sum not exceeding two hundred rupees.

[S 141 subs by s 24 of Law 35 of 1974.]

142. Penalty on persons on board falsely denying having foreign goods about them.

If any passenger or other person on board any ship or boat, or after landing therefrom, shall upon being questioned by any officer of the Customs whether he has any foreign goods upon his person or in his possession, deny the same, and any such goods shall, after such denial, be discovered upon his person or in his possession, such goods shall be forfeited, and such person shall forfeit treble the value of such goods.

143. Power to fire at vessels failing to bring to when required.

(1) If any ship or boat which is liable to seizure or examination under this Ordinance, or which officers of Customs are empowered by this Ordinance to board, shall not bring to when required so to do—

- (a) the master of such ship or boat shall forfeit the sum of five hundred rupees; and
- (b) it shall be lawful for the officer of Customs having the charge or command of any vessel flying the Sri Lanka Customs Flag, having first caused a gun to be fired as a signal, to fire at or into such ship or boat;

and such officer of Customs or any other person acting in his aid or assistance or by his direction shall be and is hereby indemnified and discharged from any action or prosecution, whether civil or criminal, in respect of any act done in pursuance of the powers conferred by this section:

Provided, however, that the powers conferred on any officer of Customs by the preceding provisions of this section shall not be exercised except in relation to a ship or boat which is for the time being within the territorial waters of Sri Lanka.

(2) Where any vessel, other than a vessel duly authorised by the Director-General in that behalf, flies the Sri Lanka Customs Flag, the master or person in charge of the vessel shall be guilty of an offence and liable to a fine not exceeding two hundred rupees.

(3) In this section, "Sri Lanka Customs Flag" means a flag of such design or description as may be specified by the Director-General by notice published in the *Gazette* to be the Sri Lanka Customs Flag.
[S 143 subs by s 25 of Law 35 of 1974.]

144. Goods not to be passed if incurred penalty is not paid.

If any person fails to pay any sum of money which he, under this Ordinance, has forfeited, or becomes liable to forfeit or to pay as a penalty, the officers of Customs may refuse to pass any goods which that person imports or brings into or is seeking to export or take out of Sri Lanka until that sum is paid:

Provided that nothing in the preceding provisions of this section shall be deemed to prohibit the recovery of such sum by the Director-General under any other provision of law.

145. Recovery of penalties.

(1) Every penalty and forfeiture in a sum of money incurred under this Ordinance shall carry such rate of interest as may be prescribed by regulations made under this Act from the date on which such penalty or forfeiture is incurred to the date of payment.

(2) All penalties and forfeitures incurred under this Ordinance and any interest thereon may be sued for and recovered by an action instituted in the name of the Attorney-General in the District Court within the local limits of whose jurisdiction the party liable to such penalty or forfeiture resides. Sections 3, 4, 5, 6, 7, 8, 12, 13, 14, 15 and 23 of the Debt Recovery (Special Provisions) Act, No. 2 of 1990 shall, *mutatis mutandis*, apply to the institution and hearing of every such action.

(3) Where an action is instituted in a District Court under subsection (2) the Court shall give priority to hearing and disposal of such, action, except where circumstances render it necessary for such other business to be disposed of earlier.

[S 145 subs by s 7 of Act 24 of 1991.]

146. Persons liable to forfeiture or penalty under any section of the Ordinance to be guilty of an offence.

If any person by reason of any act or omission becomes liable, under the provisions of any section of this Ordinance to forfeit any goods or any sum of money, or to any penalty other than a fine, such person shall, in addition, be guilty of an offence and shall, on conviction after summary trial before a Magistrate—

- (a) if the act or omission by reason of which he becomes liable to the forfeiture or penalty, relates to the importation or exportation of any goods set out in Column I of Schedule F to this Ordinance and in excess of the amount set out in the corresponding entry in Column II of that Schedule, be liable to the penalty set out in the corresponding entry in Column III of that Schedule;
- (b) if the act or omission by means of which he becomes liable to forfeiture or penalty relates to the importation or exportation of any goods which are not set out in Schedule F and the value of such goods exceeds two hundred and fifty thousand rupees, be liable to imprisonment of either description for a term not less than three months and not more than two years or to a fine not exceeding twenty five thousand rupees or to both such imprisonment and fine; and
- (c) if the act or omission does not relate to such importation or exportation, be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine:

Provided, however, that no prosecution shall be instituted against any person under this section, unless the Director-General is of opinion that the forfeiture or penalty, as the case may be, whether imposed or not cannot or is not likely to be recovered from such person.

[S 146 subs by s 77 of Act 83 of 1988.]

147. Prosecutions for offences and application of fines.

- (1) Every offence under this Ordinance shall be summarily triable by a Magistrate.
- (2) No prosecution for any offence under this Ordinance shall be instituted except by, or with the written sanction of, the Director-General or a Director of Customs hereinafter referred to as "Director".
- (3) The Director-General may at any time compound any offence under this Ordinance:

Provided that where a prosecution has been entered against any person for any offence under this Ordinance, the Director-General may compound such offence at any time before judgment and may withdraw such prosecution.

- (4) Notwithstanding the provisions of any written law to the contrary, all fine recovered in respect of offences under this Ordinance shall be paid into the hands of the Director-General at the port or place where or nearest to which the same shall have been recovered, and applied in the manner provided in section 153.

147A. Magistrates to have jurisdiction to impose any punishment prescribed for offences under this Ordinance.

Notwithstanding the provisions of any written law to the contrary, a Magistrate shall have jurisdiction to impose on any person guilty of any offence under this Ordinance, any punishment prescribed for such offence.

[S 147A ins by s 27 of Law 35 of 1974.]

148. Averment of offence.

In any information or other proceeding for any offence against this Ordinance the averment that such offence was committed within the limits of any port or of the territorial waters of Sri Lanka shall be sufficient, without proof of such limits, unless the contrary be proved.

149. Several persons concerned in the same offence jointly and severally liable to the penalty, and may be sued either by one or by separate informations.

When any penalty is imposed upon any person committing or concerned in the act by which such penalty is incurred, and such offence shall have been committed by several persons jointly, or several persons shall have been concerned in the same, such several persons shall jointly and severally incur every such penalty; and it shall be lawful to proceed against such persons to recover such penalty jointly by one information or severally by separate informations, as the Attorney-General may deem expedient.

150. Goods not specified in boat-note when found concealed in any boat to be presumed to have been stolen or unlawfully received by tindal and boatmen of such boat.

Whenever goods not specified in the boat-note mentioned in section 38 have been concealed in any boat during the loading, transit, or unloading of such boat in any harbour or port of Sri Lanka, the discovery of such goods on board such boat shall be received in all courts of Sri Lanka as *prima facie* evidence that the goods have been either stolen by the tindal and boatmen employed in such boat or that the same have been unlawfully received on board by the tindal and boatmen employed on such boat with knowledge that the same have been stolen; and shall be conclusive thereof unless and until such tindal and boatmen or any of them shall satisfactorily account for the presence of such goods on board such boat.

151. Goods not mentioned in boat-note when found in possession of any tindal or boatmen when on board of boat or on wharves to be presumed to have been stolen.

Whenever goods not specified in the boat-note mentioned in section 38 shall be found in the possession of any tindal or boatman when on board the boat in which he is employed, or when on the quays or wharves of any port or harbour of Sri Lanka, such tindal or boatman, in whose possession

such goods are found, shall be presumed to have stolen the goods or to have unlawfully received the same knowing them to have been stolen; unless and until such tindal or boatman shall satisfactorily account for his possession thereof.

152. Onus probandi to be on the party.

(1) If any goods are seized for non-payment of duties or any other cause of forfeiture, and any question shall arise in any proceedings whether civil, criminal or otherwise, whether the duties have been paid for the same, or whether the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall lie on the owner or claimer of such goods or on the person against whom any contravention of this Ordinance is alleged and not on the Attorney-General or the officer who seized or stopped such goods or on the prosecution.

(2) Where in any proceedings referred to in subsection (1), the question arises whether there has been an attempt to export or take out of Sri Lanka any goods, then, if such goods are found in any place on or near the sea-shore or the bank of any river in such quantities or packed in such manner as to suggest that such goods are intended to be exported or taken out of Sri Lanka, such goods shall be presumed to be goods in respect of which an attempt to export or take out of Sri Lanka has been made.

(3) In any proceedings referred to in subsection (1), a certificate purporting to be under the hand of the Director-General of Customs or a Deputy Director-General of Customs that the goods referred to in that certificate are in his opinion imported goods, shall be *prima facie* proof of such fact and shall be admitted in evidence without any further proof that it is so signed; and it shall not be competent for any court to require the Director-General or the Director to disclose the reasons upon which such opinion is expressed.

[S 152 subs by s 28 of Law 35 of 1974.]

153. Disbursement of forfeitures and penalties recovered under this Ordinance.

The amount—

(1) of all forfeitures and penalties recovered under this Ordinance or under this Ordinance read with the provisions of any other written law; and

(2) of the proceeds of all such goods as may be disposed of by the Director-General under section 162 of this Ordinance, or under this Ordinance read with the provisions of any other written law,

shall be paid into the hands of such Director-General and shall (after deducting any expenses incurred) be paid and applied as follows:

- (a) one half to the Deputy Secretary to the Treasury, out of which sixty *per centum* shall be credited to the Consolidated Fund and the balance forty *per centum* to the Customs Officers Management and Compensation Fund (hereinafter in this Ordinance referred to as "the Fund"; and
- (b) the other half into a reward fund under the control of the Director-General for distribution, in accordance with a scheme to be approved by the Minister, among Customs officers concerned and the informers.

[S 153 subs by s 78 of Act 83 of 1988.]

153A. Purposes to which the Fund may be applied.

(1) The sum of money in the Fund shall be utilised for the following purposes:

(a) providing such facilities as appear to the Director-General to enhance the effectiveness of the management of Customs; and

(b) granting compensation to any Customs officer who is permanently, totally or partially disabled or temporarily incapacitated, or in the event of death of any Customs officer, to the legal heirs, in any case where such disablement, incapacitation or death, as the case may be, is due to an injury—

(i) received by such officer while on duty; or

(ii) received by such officer while on a journey—

(a) from his place of residence to his place of work to report for duty; or

(b) from his place of work to his place of residence after duty, or

(iii) received by such officer, while not on duty in the performance of some act which is within the scope of his ordinary duties; or

(iv) received by such officer in consequence of any act performed in the execution of his duties; or

(v) received by such officer as a result of any act of reprisal occasioned by, or arising out of, any action taken by him in the execution of his duties.

(2) The Director-General may with the approval of the Minister by regulation provide for the principles and conditions subject to which such compensation will be granted and for all other matters necessary or expedient for the establishment and operation of such a Fund.

(3) Any compensation granted in accordance with regulations made under the preceding provisions of this section in respect of the disablement, incapacitation or death of a Customs officer shall be in addition to any pension, gratuity, compensation, allowance, or other benefit granted in respect of such disablement, incapacitation or death under the Minutes on Pensions, or any other written law.

[S 153A ins by s 79 of Act 83 of 1988.]

154. Seized goods, if unclaimed for a month, to be condemned and dealt with accordingly.

(1) All ships, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited under this Ordinance, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to ships, boats, goods, and other things seized and condemned for breach of such Ordinance, unless the person from whom such ships, boats, goods and other things shall have been seized, or the owner of them, or some person authorised by him, shall, within one month from the date of seizure of the same, give notice in writing to the Director-General or other chief officer of Customs at the nearest port that he intends to enter a claim to the ship, boat, goods, or other things seized as aforesaid, and shall further give cash security to prosecute such claim before the court having jurisdiction to entertain the same and otherwise to satisfy the judgment of the court and to pay costs in such sum as the Director-General or proper officer of Customs at the port where or nearest to which the seizure was made shall consider sufficient.

If proceedings for the recovery of the ship, boat, goods or other things so claimed be not instituted in the proper court within thirty days from the date of notice and security as aforesaid, the ship, boat, goods, or other things seized shall be deemed to be forfeited, and shall be dealt with accordingly by the Director-General or other proper officer of Customs.

[S 154(1) subs by s 29 of Law 35 of 1974.]

(2) If after the institution of proceedings in the proper court, the claimant shall give cash security to restore the things seized or their value in such sum as the Director-General or proper officer of Customs at the port where or nearest to which the seizure made shall consider sufficient, the ship, boat, goods or other things seized may, if required, be delivered up to the claimant at the discretion of the Director-General of Customs or a Deputy Director-General of Customs.

[S 154(2) subs by s 29 of Law 35 of 1974.]

(3) After institution of proceedings in the proper court in respect of any ships, boats, goods or other things the court, may, on the application of the Director-General of Customs and if the claimants do not object thereto, authorise such Director-General to dispose of such ships, boats, goods or other things and deposit the proceeds of sale in court. Where the claimants object to the disposal of such ships, boats, goods or other things the court may require the claimants to deposit cash security, equal to the market value (as assessed by such Director-General) of such ships, boats, goods or other things, in court.

[S 154(3) ins by s 8 of Act 24 of 1991.]

155. Claim to thing seized to be entered in the name of the owner.

No claim to anything seized under this Ordinance shall be admitted by such court, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, nor unless the claimant shall at the time of filing

his libel or plaint to establish his claim satisfy the court that he has given notice and security as in section 154 enacted.

156. Notice to be given to officers.

No summons shall be sued out against, nor a copy of any process served upon, any officer of the Customs or other person as aforesaid, for anything done in the exercise of his office, until one month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the party who intends to sue out such summons or process, his attorney or agent, in which notice shall be clearly and explicitly stated the cause of the action, the name and place of the abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced except of such as shall be stated in such notice; and no judgment shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a judgment and costs.

157. Actions to be brought within two months of the cause of them.

Every such action as in section 156 referred to shall be brought within two months after the cause thereof, and shall be laid and tried in the district where the facts were committed; and if the plaintiff shall become non-suited, or shall discontinue the action, or if judgment shall be given against the plaintiff, the defendant shall receive the costs of suit.

158. Officer may tender amends.

It shall be lawful for such officer or other person as aforesaid, within one month after such notice, to tender amends to the party complaining, or to his agent, and to plead such tender in bar to any action, together with other pleas; and if the court shall find the amends sufficient, it shall give judgment for the defendant; and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, or judgment shall be given for the defendant, such defendant shall be entitled to costs as in section 157 mentioned:

Provided always that it shall be lawful for such defendant, by leave of the court where such action shall be brought at any time before issue joined, to pay money into court as in other actions.

159. Judge may certify probable cause of seizure

In case any information shall be brought to trial on account of any seizure made under this Ordinance, and a Judgment shall be given for the claimant thereof, and the court before which the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action or prosecution on account of such seizure; and if any action shall be brought to trial against any person on account of such seizure, wherein a judgment shall be given against the defendant, if the court before which such information shall have been tried shall have certified on the said record that there was a probable cause for such seizure, the plaintiff shall only be entitled to a judgment for the things seized, or the value thereof, and not to any damages, nor to any costs of suit.

160. .

[S 160 rep by s 9 of Act 24 of 1991.]

161. Persons employed for the protection of the revenue to be deemed to be duly employed.

All persons employed for the protection of the revenue under the direction of the Minister or of the Director-General shall be deemed and taken to be duly employed for the protection of the revenue; and the averment in any information that such person was so duly employed shall be sufficient proof thereof, unless the defendant in such information shall prove to the contrary.

162. Vessels and goods seized and condemned may be disposed of as the Director-General shall direct.

All ships and boats, and all goods whatsoever, which shall have been seized and condemned for a breach of this Ordinance, shall be disposed of as soon as conveniently may be after the condemnation thereof, in such manner as the Director-General or other proper officer of Customs shall direct; Provided that all horses, cattle, or goods of a perishable nature may be sold forthwith.

6163. Director-General in certain cases may mitigate forfeiture or penalty.

In all cases in which under this Ordinance any ships, boats, conveyances, goods, or other things have become liable to forfeiture, or shall have been forfeited, and in all cases in which any person shall have incurred or become liable to any penalty, it shall be lawful for the Director-General, should he deem such forfeiture or penalty unduly severe, to mitigate the same; but all cases so determined by the Director-General shall nevertheless be liable to revision by the Minister.

164. Restoration of seized goods, ships.

In case any goods, ships, or boats shall be seized as forfeited, or detained as undervalued, by virtue of this Ordinance, it shall be lawful for the Minister to order the same to be restored in such manner and on such terms and conditions as he shall think fit to direct; and if the proprietor of the same shall accept the terms and conditions prescribed by the Minister, he shall not have or maintain any action for recompense or damage on account of such seizure or detention and the person making such seizure shall not proceed in any manner for the purpose of obtaining the condemnation thereof.

165. The Minister may restore seizures, and mitigate or remit punishments and penalties.

The Minister may, by any order made for that purpose, direct any ship, boat, goods, or other commodities whatever, seized under this Ordinance, to be delivered to the proprietor thereof, whether condemnation shall have taken place or not, and may also mitigate or remit any penalty or fine or any part of any penalty or fine incurred under this Ordinance, or may release from confinement any person committed under this Ordinance, on such terms and conditions as to him shall appear to be proper:

Provided always that no person shall be entitled to the benefit of any order for such delivery, mitigation, remission, or release, unless such terms and conditions are fully and effectually complied with.

166. Possession of articles suspected to have been stolen.

(1) Any person who, within the limits of any port, is found, or is proved to have been, in possession or in charge of any article which is suspected to have been stolen from any ship, boat, quay, warehouse, or wharf of any port of Sri Lanka, may be charged with being, or having been, in possession of property which is reasonably suspected to have been stolen; and if such person does not give an account to the satisfaction of the Magistrate as to how he came by such article, and the Magistrate is satisfied that, having regard to all the circumstances of the case, there are reasonable grounds for suspecting such article to have been stolen, such person shall be guilty of an offence, and shall be liable on conviction before a Magistrate to a fine not exceeding ten thousand rupees, or to imprisonment of either description for a period not exceeding six months.

[S 166(1) am by s 10 of Act 24 of 1991.]

(2) Where any officer of Customs or any Police Officer finds any person in possession or charge of any article which he suspects to have been stolen, he may seize such article and bring or cause to be brought such person before a Magistrate and charged as aforesaid.

166A. Where the offence is concerned with goods, the value of which exceeds five hundred thousand rupees such offence to be deemed a non-bailable offence.

Where a person is suspected to be concerned with an offence under section 129 or section 130 of this Ordinance and the value of the goods in respect of which the offence is alleged to have been committed exceeds five hundred thousand rupees, then notwithstanding anything in this Ordinance or in any other written law such offence shall be deemed to be a non-bailable offence.

[S 166A ins by s 80 of Act 83 of 1988.]

166B. Guidelines for imposing penalty or ordering forfeiture.

In imposing a penalty or ordering a forfeiture under sections 27, 28, 29, 30, 31, 32, 38, 47, 52, 56, 57, 59, 62, 63, 64, 67, 68, 74, 76, 77, 110, 119, 129, 130, 131, 132, 133, 135, 136 and 137, the Director-General shall have regard to the following:

- (a) the gravity of the contravention giving rise to the penalty or forfeiture;
- (b) the amount of revenue lost as a result of such contravention;

(c) the availability or shortage, as the case may be, of the goods with respect to which such contravention has been committed.

[S 166B ins by s 80 of Act 83 of 1988.]

PART XIV

INTERPRETATION OF TERMS USED IN THIS ORDINANCE

167. Interpretation.

Whenever the several terms or expressions following shall occur in this Ordinance, or in any other enactment relating to the Customs, the same shall be construed respectively in the manner hereinafter directed, unless there is anything in the context repugnant to such construction, that is to say—

"bonded warehouse" shall mean any place approved of by the Minister in which goods entered to be warehoused may be lodged, kept, and secured without payment of duty, although prohibited to be used in Sri Lanka;

"coastwise" shall mean the trade by sea from any one part of Sri Lanka to any other part thereof;

"Director-General" shall mean the Director-General of Customs, Director, Assistant Director of Customs, Superintendent of Customs, or other principal acting officer of Customs of any port or place;

"Container Freight Station" or "Inland Clearance Depot" shall mean a place designated by the Director-General—

(a) for the storage and clearance of goods under Customs control after they have been de-stuffed from containers or when they are to be stuffed into containers;

(b) for the storage of containers which have goods therein; and

(c) for the storage of empty containers;

[Ins by s 81 of Act 83 of 1988.]

"Customs house" shall mean any place for the transaction of Customs business;

[Ins by s 81 of Act 83 of 1988.]

"document" includes any information contained in an electronic record, printed on a paper stored, recorded or copied on optical or magnetic media and produced by whatever means;

[Ins by s 8 of Act 2 of 2003.]

"flashing point" shall mean "flashing point" as defined in the Petroleum Ordinance, or in any enactment that may hereafter be substituted therefor;

"foreign" shall mean the trade by sea to or from any part or place beyond the limits of Sri Lanka;

"kerosene oil" shall include the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosene, petroleum, paraffin oil, mineral oil, petrol, gasoline, benzol, benzoline, benzine, and any liquid that is made from petroleum, coal, schist, peat, or any other bituminous substance, or from any products of petroleum with a flashing point of less than 150°F., and any inflammable hydrocarbon (including any mixture of hydrocarbon, and any liquid containing hydrocarbon) which is capable of being used for providing reasonably efficient motive power for a motor car;

"warehouse of the Republic" shall mean any place provided by the Government for lodging goods therein for the security of the Customs;

"mail steamers" shall mean steamers running under contract with the United Kingdom, Indian, or Burmese, or any colonial or foreign Government;

"master" of any ship shall mean the person having or taking the charge or command of such ship;

"officer of Customs" shall mean any person acting as such for the time being;

"owner" shall alike mean one owner if there be only one, and any or all the owners if there be more than one;

"port or harbor" shall include a Customs aerodrome;

[Ins by s 81 of Act 83 of 1988.]

"seamen" shall include mate, mariner, sailor, or lands-man, being one of the crew of the ship;

"ship or vessel" shall mean ship or vessel of every description and shall include an aircraft;

[Subs by s 81 of Act 83 of 1988.]

"shipment" with its grammatical variations and cognate expressions shall include loading into an aircraft;

[Ins by s 81 of Act 83 of 1988.]

"value", in relation to imported goods, whether such goods were imported lawfully, or otherwise means the price of such goods as determined in accordance with Schedule E.

[Subs by s 81 of Act 83 of 1988.]

"warehouse" shall mean any place provided for the deposit of goods on the landing or for the shipment thereof for the security of the Customs.

CHAPTER 287

LAND GRANTS (SPECIAL PROVISIONS)

Act
No. 43 of 1979.

AN ACT TO PROVIDE FOR THE VESTING IN THE STATE, OF AGRICULTURAL OR ESTATE LAND WHICH IS VESTED IN THE LAND REFORM COMMISSION UNDER THE LAND REFORM LAW; TO ENABLE THE TRANSFER, FREE OF CHARGE, TO THE LANDLESS, OF THE LANDS SO VESTED IN THE STATE; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[25 th June. 1979.]

Short title.

1. This Act may be cited as the Land Grants (Special Provisions) Act.

(4) Where any agricultural or estate land is vested in the State by an Order made under subsection(1)—

Power of Minister to vest in the State, land vested in the Land Reform Commission.

2. (1) The Minister may—
- (a) having regard to the need to augment the area of land available to the State, for the purposes of distribution;
 - (b) with the concurrence of the Minister in charge of the subject of Land Reform; and
 - (c) by an Order published in the Gazette,

(a) the State shall, with effect from the date of such Order, have absolute title to such agricultural or estate land free from all encumbrances (other than any servitude specified in such Order); and

(b) the State shall pay to the Land Reform Commission in respect of such agricultural or estate land, compensation of an amount equal to the compensation payable under the Land Reform Law in respect of such agricultural or estate land by the Land Reform Commission to the former owner of such agricultural or estate land.

vest in the State, any agricultural or estate land which is vested in the Land Reform Commission under the Land Reform Law.

(2) Every Order made under subsection (1) shall—

- (a) specify the extent of agricultural or estate land vested in the State by such Order;
- (b) make reference to the survey plan made by the Surveyor-General or under his direction in respect of such agricultural or estate land ;
- (c) specify any servitude attaching to such agricultural or estate land.

3. The President may, by an instrument of disposition substantially in the Form set out in the Schedule hereto, transfer, free of charge, any portion of any land vested in the State by virtue of an Order made under section 2, to any citizen of Sri Lanka over eighteen years of age.

President may transfer free of charge lands vested in the state under this Act.

In transferring any State land under this section, the President shall have regard to—

- (a) the fact that the prospective transferee does not own any land ;
- (b) the level of income of the family of the prospective transferee ; and
- (c) the capacity of the prospective transferee to develop such land.

(3) Every Order made under subsection (1) shall be final and conclusive and shall not be called in question in any court.

Survey of land to precede transfer.

4. No State land shall be transferred under section 3 until after such land has been surveyed and demarcated to the satisfaction of the Land Commissioner.

to a court of competent jurisdiction, to a decree cancelling the instrument of disposition effecting such transfer and declaring such land to be vested in the State, free from all encumbrances.

Transfers to be subject to certain conditions.

5. (1) Every transfer of any State land under section 3 shall be deemed to be subject to the following conditions, whether or not such conditions are inserted in the instrument of disposition effecting such transfer:—

6. (1) Every instrument of disposition whereby a transfer of State land is effected under section 3 shall be signed and executed by the President.

Execution and authentication of instruments of disposition effecting transfers of State land under section 3.

- (a) no disposition of such land shall be effected except with the prior consent in writing of the Land Commissioner;
- (b) the transferee shall carry out on such land such soil conservation measures as the Government Agent of the administrative district within which such land is situated, may from time to time require ;
- (c) the transferee's title to such land shall be subject to any servitude attaching to such land ;
- (d) such transfer shall be deemed not to confer any right to any mineral in, under, or upon such land and every such mineral shall be deemed to remain, and shall remain, the absolute property of the State ;
- (e) the transferee shall be liable for the payment of any irrigation rates payable under the Irrigation Ordinance in respect of such land ;
- (f) the title to such land shall revert to, and vest in, the State if there is a failure by the transferee to comply with any condition to which such transfer is deemed to be subject by virtue of this subsection ; and
- (g) such other conditions as may be prescribed in the interests of the proper utilization and management of such land.

(2) The President may, if he thinks fit, instead of signing the original of any such instrument of disposition, cause a facsimile of his signature to be stamped thereon ; and any original so stamped shall be deemed to be signed by the President.

(3) The facsimile of the signature of the President shall be stamped on the original of the instrument of disposition by, or in the presence of, the Secretary to the President or some other person authorized in that behalf by the President; and the Secretary or such other person shall certify on such original that the President's signature was stamped thereon by him or in his presence, as the case may be.

7. (1) A copy of every instrument of disposition signed or deemed to be signed in accordance with section 6 shall be authenticated by the signature of the Government Agent of the administrative district within which the land transferred by such instrument is situated and shall be deposited for purposes of record at the office of the Registrar of Lands of the district within which such land is situated.

Authentication of copies of instruments of disposition affecting transfers of State land under section 3.

(2) Any such copy as is referred to in subsection (1) shall, if authenticated in the manner specified in that subsection, be primary evidence, within the meaning of section 62 of the Evidence Ordinance, of the instrument of which it purports to be a copy.

(2) Upon proof that there has been a failure to comply with or to observe any condition to which any transfer of State land under section 3 is deemed to be subject, the State shall be entitled, upon application

8. Every instrument of disposition whereby a transfer of State land is effected under section 3 shall, when effected, be registered at the instance of the Government Agent of the administrative district within which such land is situated. No fee shall be paid or recovered for such registration.

Registration of instruments of disposition.

Nomination of successor to State land transferred under section 3.

9. (1) A person to whom any State land is transferred under section 3 or any person on whom the rights of the first-mentioned person in such land have devolved (in this subsection referred to as "the grantee") may nominate a successor who shall be entitled to succeed to the rights of the grantee in such land upon the death of the grantee. A nomination made in pursuance of this subsection shall be deemed not to be a disposition within the meaning of section 5 (1) (a).

(2) Any nomination of a successor made in pursuance of subsection (1) may at any time be cancelled by the person who made such nomination and a fresh nomination of a successor may be made by such person.

(3) The nomination of a successor and the cancellation of any such nomination shall be effected by a person to whom State land has been transferred under section 3 or any person on whom the rights of the first-mentioned person in such land have devolved—

(a) in a document substantially in the prescribed form executed and witnessed in duplicate before a Government Agent, a Registrar of Lands, a Notary or a Justice of the Peace; or

(b) by his last will.

(4) The provisions of subsections (4), (5), (6), (7) and (9) of section 7 of the Agrarian Services Act shall, *mutatis mutandis*, apply to, and in relation to, a nomination effected in accordance with paragraph (a) of subsection (3).

(5) Regulations may be made prescribing the procedure for the registration of a document referred to in paragraph (a) of subsection (3).

Devolution of rights in State land transferred under section 3, in the absence of nomination under section 9.

10. Where a person to whom State land has been transferred under section 3 or any person on whom the rights of the first-mentioned person in such land have devolved (in this section referred to as "the grantee") dies and the grantee has not nominated a successor under section 9, or where the successor nominated by the

grantee under that section is dead, the rights of the grantee in such land shall devolve on his surviving spouse and, failing such spouse, on one only of the relatives of the grantee in the following order—

- (1) sons,
- (2) daughters,
- (3) grandsons,
- (4) grand-daughters,
- (5) father,
- (6) mother,
- (7) brothers,
- (8) sisters,
- (9) uncles,
- (10) aunts,
- (11) nephews,
- (12) nieces,

the oldest being preferred to the others where there are more relatives than two in any group, and the older being preferred to the other where there are only two relatives in any group.

In this section, "relative" means a relative by blood and not by marriage.

11. The burden of any condition to which any transfer of State land under section 3 is deemed to be subject, shall run with the land and shall be binding upon the transferee and upon all persons claiming that land through, from, or under, such transferee.

Conditions to which a transfer under section 3 is deemed to be subject, to run with the land.

12. Where any person to whom any State land is transferred under section 3 effects a disposition of that land without the prior consent in writing of the Land Commissioner given in accordance with the provisions of section 5 (1) (a) such disposition shall be void and inoperative for all purposes.

Disposition of land transferred under section 3 without the consent in writing, of the Land Commissioner void and inoperative.

13. Where it appears to the Government Agent of the administrative district within which any State land transferred under

Rectification of errors, &c., in instrument of disposition.

section 3 is situated that any instrument of disposition effecting such transfer contains any clerical or other error or requires amendment in respect of the description of the land comprised therein or in respect of the inscription or recital of the name or designation of the transferee or of any other material fact, such error may be rectified or such amendment may be made by an endorsement on such instrument of disposition signed by such Government Agent and the transferee; and any endorsement so signed shall be sufficient for all purposes to rectify the error or to effect the amendment; and the instrument on which any such endorsement is made shall have effect as though it had been originally issued or executed as so rectified or amended.

(2) Any direction or decision of the Land Commissioner shall be duly complied with, or given effect, to by every such public officer.

18. (1) The Minister may make Regulations. regulations in respect of all or any of the matters which are required by this Act to be prescribed.

(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 therein.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to the validity of anything previously done thereunder. Notification of the date on which any regulation, is deemed to be so rescinded shall be published in the Gazette.

Alluvial and other accretions to any land transferred under section 3.

14. Any alluvial or other accretion to any State land transferred under section 3 shall, together with all rights appertaining or belonging to such accretion, be the property of the State and is hereby declared to be vested in the State.

Power to inspect any State land transferred under section 3.

15. The Government Agent of the administrative district within which any State land transferred under section 3 is situated, or any officer authorized in writing by such Government Agent, may at any time enter and inspect such land, for the purposes of ascertaining whether any condition to which such transfer is deemed to be subject is being complied with.

19. 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 any inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail. Provisions of this Act to prevail over any other law.

Administration of this Act.

16. (1) The Land Commissioner shall be responsible for and charged with the administration of this Act.

20. In this Act, unless the context Interpretation otherwise requires—

(2) In the exercise of his powers and in the performance of his duties under this Act, the Land Commissioner shall be subject to the general direction and control of the Minister.

" agricultural land " has the same meaning as in the Land Reform Law;

" disposition " with its grammatical variations and cognate expressions, means any transaction of whatever nature affecting land or the title thereto, and includes any conveyance, transfer, surrender, exchange, lease or mortgage of land or the creation of a trust attaching to land;

Reference to Land Commissioner in case of doubt.

17. (1) Any public officer entrusted with any duties in respect of, or connected with, the implementation of this Act shall, on his own or at the instance of the Land Commissioner, refer to such Land Commissioner for decision, any question of doubt or difficulty in connexion with the performance of such duties.

" estate land " has the same meaning as in the Land Reform Law ;

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" Land Commissioner " means the Land Commissioner appointed under the Land Development Ordinance;

established by the Land Reform Law ;

"mineral" has the same meaning as in the Mines and Minerals Law;

" Land Reform Commission" means the Land Reform Commission

" prescribed " means prescribed by regulation made under section 18.

[Section 3.]

SCHEDULE

INSTRUMENT OF DISPOSITION EFFECTING TRANSFER OF LAND UNDER SECTION 3 OF THE LAND GRANTS (SPECIAL PROVISIONS) ACT, 1979

1. I,..... President of the Democratic Socialist Republic of Sri Lanka, do hereby transfer unto (hereinafter called the transferee), free of any payment, the State land described in the First Schedule hereto, subject to the conditions set out in the Second Schedule hereto and the provisions of the Land Grants (Special Provisions) Act.

2. The title to the land transferred by this instrument shall revert to, and vest in, the State if the transferee fails to comply with any condition set out in the Second Schedule hereto or any provisions of the Land Grants (Special Provisions) Act.

Given under my hand this.....day of..... 19.....

I certify under section 6 (3) of the Land Grants (Special Provisions) Act that the above facsimile of the President's signature was stamped hereon by me/in my presence.

Secretary to the President.

CHAPTER 595

LOCAL GOVERNMENT (ADMINISTRATIVE REGIONS)

Ordinance
No. 57 of 1946,
Act
No. 22 of 1955.

AN ORDINANCE TO MAKE PROVISION FOR DEFINING THE AREAS FOR WHICH ASSISTANT COMMISSIONERS OF LOCAL GOVERNMENT MAY BE APPOINTED AND TO ENABLE SUCH ASSISTANT COMMISSIONERS TO EXERCISE, DISCHARGE AND PERFORM. WITHIN THE LIMITS OF THE AREAS AFORESAID. CERTAIN POWERS, FUNCTIONS AND DUTIES OF THE COMMISSIONER OF LOCAL GOVERNMENT.

[30th November, 1946.]

Short title.

1. This Ordinance may be cited as the Local Government (Administrative Regions) Ordinance.

Government (hereinafter referred to as an "Assistant Commissioner") for each such region.

Power to define administrative regions and to appoint Assistant Commissioners of Local Government therefor.

2. For the purposes of facilitating the enforcement of the laws relating to Local Government and other laws which are of local application—

- (a) the Minister may by Order published in the Gazette, divide Sri Lanka into administrative regions (each of which is hereinafter referred to as a "region") and define each such region either by setting out the metes and bounds of that region or by enumerating the provinces, administrative districts or divisions or parts thereof comprised in that region; and
- (b) there may be appointed an Assistant Commissioner of Local

3. The Assistant Commissioner for each region shall establish and maintain an office within the limits of the region and shall cause a notice, indicating the place at which such office is situated, to be published within such limits in such manner as he may deem best calculated to give publicity thereto.

Office.

4. With effect from such date* as the Governor may appoint by Order published in the Gazette and subject to the general direction and control of the Commissioner of Local Government, the Assistant Commissioner for each region may exercise, discharge or perform, within the limits of such region, any power, function or duty vested in, assigned to or imposed on the Commissioner by any written law.

Assistant Commissioners to exercise powers, &c., of the Commissioner of Local Government.

* 1st February, 1947.—Gazette No. 9,647 of 3rd January, 1947.

CHAPTER 592

LOCAL GOVERNMENT SERVICE

Law No. 16 of 1974. Act No. 36 of 1980.

A LAW TO PROVIDE FOR THE CONSTITUTION AND REGULATION OF A LOCAL GOVERNMENT SERVICE, TO PROVIDE FOR THE ESTABLISHMENT OF A LOCAL GOVERNMENT SERVICE ADVISORY BOARD AND A LOCAL GOVERNMENT SERVICE DISCIPLINARY BOARD; TO SPECIFY THE POWERS, DUTIES AND FUNCTIONS OF SUCH BOARDS. TO ESTABLISH A DEPARTMENT OF LOCAL GOVERNMENT SERVICE; TO PROVIDE FOR THE REPEAL OF THE LOCAL GOVERNMENT SERVICE ACT, NO. 18 OF 1969, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[23rd May, 1974.]

Short title.

1. This Law may be cited as the Local Government Service Law.

PART II

LOCAL GOVERNMENT SERVICE ADVISORY BOARD

PART I

LOCAL GOVERNMENT SERVICE

Constitution of Local Government Service and provisions relating to members of that service.

2. (1) A service to be called and known as the Local Government Service (hereinafter referred to as "the service") is hereby constituted.

(2) The service shall consist of all monthly paid officers and servants of Municipal Councils, Urban Councils, Town Councils and Village Councils other than the officers and servants whose posts are specified in the Schedule hereto.

(3) Every person who was, on the day immediately preceding the 23rd day of May, 1974, a member of the Local Government Service constituted by the repealed Act shall, with effect from such date, be deemed to be a member of the service constituted under this Law.

(4) Every member of the service shall be deemed to be a public servant within the meaning and for the purposes of the Penal Code.

(5) Every member of the service shall be deemed to be a public servant within the meaning and for the purposes of the Public Servants (Liabilities) Ordinance.

3. (1) There shall be established a Local Government Service Advisory Board (hereinafter referred to as the "Advisory Board") to exercise, perform or discharge such powers, functions or duties as may be required of such Board under this Law.

Establishment of the Local Government Service Advisory Board,

(2) The Advisory Board shall consist of three members appointed by the Minister, one of whom shall be designated Chairman.

(3) No person shall be qualified for being appointed or for continuing as a member of the Advisory Board, if he is—

a Member of Parliament • or

(a) a member of any local authority ; or

(c) a member of the Local Government Service Disciplinary Board ; or

(d) a member of the Local Government Service.

(4) Every member of the Advisory Board shall, subject to the provisions of subsection (5), hold office for a period of four years from the date of his appointment.

(5) The office of a member of the Advisory Board shall become vacant—

(a) on such member resigning office by a written notice addressed to the Minister; or

PART III

LOCAL GOVERNMENT SERVICE
DISCIPLINARY BOARD

- (b) on such member being removed from office by the Minister; or
- (c) upon the death of such member.

(6) Where any member of the Advisory Board dies or resigns or is removed from office, the Minister shall appoint another person in place of such member, and the person so appointed shall, unless he vacates office earlier, hold office during the unexpired period of the term of office of such member.

(7) Where any member of the Advisory Board is 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 any other person to act in place of such member.

(8) The members of the Advisory Board may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance ; such remuneration shall be charged on the Consolidated Fund and shall not be diminished during their terms of office.

(9) There shall be a Secretary of the Advisory Board who shall be a member of the Sri Lanka Administrative Service or a member of the service. The other members of the staff of the Advisory Board shall be appointed from the transferable services of the State or from members of the service.

(10) The Minister may, without assigning any reason, remove the Chairman or any other member of the Advisory Board from office. Such removal shall be final and conclusive and shall not be questioned in any court.

(11) The Chairman shall preside at all meetings of the Advisory Board at which he is present. In the absence of the Chairman from any meeting of the Advisory Board any member chosen by those present may preside thereat.

(12) The Advisory Board may regulate its own procedure in any matter not provided for in this Law or any regulation made thereunder.

4. (1) There shall be established a Local Government Service Disciplinary Board (hereinafter referred to as the "Disciplinary Board ") to exercise, perform or discharge such powers, functions or duties as may be required of such Board under this Law. Establishment of the local Government Service Disciplinary Board,

(2) The Disciplinary Board shall consist of three members appointed by the Minister, one of whom shall be designated Chairman.

(3) No person shall be qualified for being appointed or for continuing as a member of the Disciplinary Board, if he is—

- (a) a Member of Parliament; or
- (b) a member of any local authority; or
- (c) a member of the Local Government Service Advisory Board ; or
- (d) a member of the Local Government Service.

(4) Every member of the Disciplinary Board shall, subject to the provisions of subsection (5), hold office for a period of four years from the date of his appointment.

(5) The office of a member of the Disciplinary Board shall become vacant—

- (a) on such member resigning office by a written notice addressed to the Minister; or
- (b) on such member being removed from office by the Minister; or
- (c) upon the death of such member.

(6) Where any member of the Disciplinary Board dies or resigns or is removed from office, the Minister shall appoint another person in place of such member and the person so appointed shall hold office, unless he vacates office earlier, during the unexpired period of the term of office of such member.

(7) Where any member of the Disciplinary Board is 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 any other person to act in place of such member.

(8) The members of the Disciplinary Board may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance ; such remuneration shall be charged on the Consolidated Fund and shall not be diminished during their terms of office.

(9) There shall be a Secretary of the Disciplinary Board who shall be a member of the Sri Lanka Administrative Service or a member of the service. The other members of the staff of the Disciplinary Board shall be appointed from the transferable services of the State or from members of the service.

(10) The Minister may, without assigning any reason, remove the Chairman or any other member of the Disciplinary Board from office. Such removal shall be final and conclusive and shall not be questioned in any court.

(11) The Chairman shall preside at all meetings of the Disciplinary Board at which he is present and in the absence of the Chairman from any meeting of the Disciplinary Board any member chosen by those present may preside thereat.

(12) The Disciplinary Board may regulate its own procedure on any matter not provided for in this Law or any regulation made thereunder.

5. The Disciplinary Board shall for the purposes of performing its functions under this Law, have all the powers of a District Court—

- (a) to summon and to compel the attendance of witnesses;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to any witnesses.

PART IV

APPOINTMENT, DISMISSAL, DISCIPLINARY CONTROL, &c., OF MEMBERS OF THE SERVICE

6. (1) Subject as hereinafter provided, the Minister shall be responsible for and have the powers of appointment, transfer, dismissal and disciplinary control of members of the service.

Powers of the Minister relating to appointment, dismissal, disciplinary control, &c., of members of the service.

(2) The Minister shall provide for and determine all matters relating to members of the service including the formulation of schemes of recruitment, payments and remuneration and codes of conduct for members of the service, the procedure for the exercise and delegation of the powers of appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service.

(3) The Minister may, notwithstanding any delegation of powers as is referred to in this Law, exercise the powers of appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service.

(4) No institution administering justice or any other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any recommendation, order or decision of the Cabinet of Ministers, the Minister, the Local Government Service Advisory Board, the Local Government Service Disciplinary Board, a public officer or a member of the service regarding any matter concerning the appointment, transfer, release, retirement, abolition of posts, dismissal or disciplinary control of the members of the service.

7. The Minister may delegate to any public officer by designation his power of appointment in respect of any post in the service which carries an initial consolidated salary of less than Rs- 6,720 per annum.

Minister may delegate his powers.

8. (1) The Minister or the public officer so delegated shall not exercise his power of appointment of members of the service unless he has received the

Recommendations of the Advisory Board.

Powers of the Disciplinary Board.

recommendation of the Advisory Board in respect of the appointment to be made by him.

(2) It shall be the duty of the Advisory Board when so requested in respect of any appointment, to furnish the Minister or the public officer, as the case may be, its recommendation in respect of such appointment.

Dismissal and disciplinary control by Minister.

9. The Minister shall not exercise his power of dismissal or disciplinary control of members of the service unless he has received the recommendation of the Disciplinary Board;

Provided, however, that the Minister shall not exercise his power of dismissal of members of the service whose consolidated salary is not less than Rs. 14,400 per annum unless he has received the approval of the Cabinet of Ministers.

Dismissal and disciplinary control by public officers.

10. (1) The Minister may delegate to any state officer by designation the power of dismissal or disciplinary control of members of the service whose consolidated salary does not exceed Rs. 6,720 per annum.

(2) A public officer to whom the Minister has delegated his power of dismissal or disciplinary control under subsection (1) shall not exercise such power without receiving the recommendation of the Disciplinary Board.

Appeals.

11. (1) Any member of the service aggrieved by an order of dismissal under this Law shall, subject to such procedure as may be determined by the Minister, have the right to make a single appeal against such order of dismissal to the Minister who shall have the power to confirm or vary in any manner, such order of dismissal.

(2) No order of dismissal made with the approval of the Cabinet of Ministers shall be varied except with the concurrence of the Cabinet of Ministers.

Delegation of powers relating to release, transfer, &c.

12. The Minister may delegate to any public officer by designation his powers relating to the release, transfer, retirement and abolition of posts of members of the service.

12A. (1) Notwithstanding the provisions of sections 6 to 12 (both inclusive) of this Law, where the Minister is of opinion that reference from or to the Advisory Board or the Disciplinary Board, as the case may be, is likely to delay or restrict in any manner the administration of Local Government affairs, the Minister may, subject to the approval of the Cabinet of Ministers—

Delegation and exercise of powers of appointment, &c., in certain circumstances. [§ 2,36 of 1980.]

(a) exercise his powers of appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service without reference from or to the Advisory Board or the Disciplinary Board, as the case may be; or

(b) delegate by Order published in the Gazette to any public officer by designation all or any of such powers in respect of all or any of the categories of members of the service, and in every case such public officer shall exercise any such power without reference from or to the Advisory Board or the Disciplinary Board, as the case may be;

Provided, however, that any such power so delegated shall be exercised by such public officer subject to the approval of the Cabinet of Ministers.

(2) Any Order made and published under subsection (1) shall remain in force until revoked by the Minister.

PART V

GENERAL

13. There shall be established a Department of Local Government Service.

A Department of Local Government Service to be established.

14. (1) There shall be appointed a person to be or to act as the Director of Local Government Service to perform any duty or function imposed on him under this

Appointment of Director of Local Government Service.

Law or delegated or assigned to him by the Minister by Order published in the Gazette. The person appointed to be or to act as the Director of Local Government Service shall be a member of the Sri Lanka Administrative Service.

(2) There may be appointed such number of Deputy Directors, Assistant Directors and other officers and servants as may be necessary to carry out the functions and duties imposed on the Director of Local Government Service by this Law or delegated or assigned to him by the Minister.

Establishment of Pension Fund.

15. (1) There shall be established a Fund to be known as the Local Government Service Pension Fund for the payment of pensions and gratuities to the pensionable members of the service.

(2) The Local Government Service Pension Fund established under the repealed Act shall be deemed to be the Local Government Service Pension Fund established under this section.

Establishment of Widows' and Orphans' Pension Fund.

16. (1) There shall be established a Fund to be known as the Local Government Service Widows' and Orphans' Pension Fund for the payment of pensions to the widows and children of the pensionable members of the service.

(2) The Widows' and Orphans' Pension Fund established under the repealed Act shall be deemed to be the Local Government Service Widows' and Orphans' Pension Fund established under this section.

Establishment of Provident Fund.

17. (1) There shall be established a Fund to be known as the Local Government Service Provident Fund for the grant of benefits to non-pensionable members of the service.

(2) The Local Government Service Provident Fund established under the repealed Act shall be deemed to be the Local Government Service Provident Fund established under this section.

Administration of Funds.

18. From the 23rd day of May, 1974, the administration of each of the Funds established under sections 15, 16 and 17

shall be transferred to the Director of Local Government Service or any other public officer appointed by the Minister for that purpose.

19. (1) Every local authority shall cause and permit every person who is appointed or transferred under this Law to any post in the service of that authority to perform and discharge the functions and duties of that post and shall, out of its funds, pay the salary and allowances of each such person.

(2) On or after the 23rd day of May, 1974, no post in any local authority other than a post specified in the Schedule hereto shall, notwithstanding anything in any other written law, be abolished by such local authority except with the approval in writing of the Minister.

20. The payment of any sum by a local authority by way of contribution to the Local Government Service Pension Fund or the Local Government Service Widows' and Orphans' Pension Fund or the Local Government Service Provident Fund under this Law shall be deemed to be a purpose for which the funds at the disposal of the local authority may be expended under the written law relating to the powers of that local authority, and such sum may, in the case of a local authority which has defaulted in the payment of any sum to any of the aforesaid funds, be deducted from any moneys payable by the Government to such local authority.

21. The Minister may, where he considers it necessary in the interests of the service, by regulation, amend or vary the Schedule to this Law and may, from time to time, replace that Schedule by a new Schedule incorporating all amendments or variations made therein under the preceding provisions of this section.

22. If, in first giving effect to the provisions of this Law, any doubt or difficulty arises in respect of any matter or question for which no provision or no effective provision is made by this Law, the Minister may, by Order published in the Gazette, remove or determine such doubt or difficulty.

Appointments, transfers, salaries and abolition of posts.

Contributions by local authorities to the Local Government Service Pension Fund, the Local Government Service Widows' and Orphans' Pension Fund and the Local Government Service Provident Fund.

Amendment and replacement of Schedule.

Removal of difficulties.

Power to make regulations, **23.** (I) The Minister may, from time to time, make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(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 appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service;
- (b) the administration, regulation, supervision and control of each of the Funds referred to in sections 15, 16 and 17;
- (c) the conditions and circumstances in which, and the restrictions subject to which, the members of the service will be eligible for the grant of pensions and gratuities under the Local Government Service Pension Fund established under section 15, and the payments to be made to such members under such Pension Fund;
- (d) the conditions and circumstances in which, and the restrictions subject to which, widows and children of members of the service will be eligible for the grant of pensions under the Local Government Service Widows' and Orphans' Pension Fund established under section 16, the fixing of the contributions to be made to such Fund by the authority administering such Fund, and by members of the service, the payments to be made from such Fund to such widows and children, the authorizing of contributions of such members to be deducted from their salaries, and the procedure for making such deductions;
- (e) the procedure for making deductions from the salaries of contributors to

the Local Government Service Provident Fund established under section 17;

(f) all matters in respect of which regulations are 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 on such later date as may be specified therein.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

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

24. (1) The Local Government Service Act, No. 18 of 1969, is hereby repealed. Repeal.

(2) Notwithstanding the repeal of the aforesaid Act—

- (a) every regulation or rule made under the Local Government Service Ordinance, No. 43 of 1945,* and the repealed Act, and in force on the day immediately preceding the 23rd day of May, 1974, shall, in so far as it is not inconsistent with the provisions of this Law, be deemed to be a regulation made under this Law and have effect accordingly and may be amended, varied or rescinded by regulation made under this Law;
- (b) any inquiry or other matter, which on the day immediately preceding the 23rd day of May, 1974, was pending before the Local Government Service Commission established under the repealed Act, may be continued, heard and

* Repealed and replaced by Act No. 18 of 1969, itself repealed and replaced by Law No. 16 of 1974.

determined by the Director of Local Government Service unless the Minister directs otherwise;

the service includes promotion of such members;

(c) the provisions of subsection (2) of section 55 and section 58 of the Local Government Service Ordinance, No. 43 of 1945,* kept in force by the repealed Act shall remain in force.

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

" Minister " means the Minister in charge of the subject of Local Government; and

Interpretation. **25.** In this Law, unless the context otherwise requires—

" appointment" in relation to members of

" repealed Act" means the Local Government Service Act, No. 18 of 1969.

[Sections 2 and 19-]

SCHEDULE

1. Every post of a temporary or casual nature in any local authority.
2. Every post in a Municipal Council if the maximum of the salary scale assigned to that post does not exceed Rs. 4,000 (consolidated) per annum.
3. Every post in an Urban Council if the maximum of the salary scale assigned to that post does not exceed Rs. 3,500 (consolidated) per annum.
4. Every post in a Town Council or a Village Council if the maximum of the salary scale assigned to that post does not exceed Rs. 3,000 (consolidated) per annum.

" Repealed and replaced by Act No. 18 of 1969, itself repealed and replaced by Law No. 16 of 1974.

CHAPTER 62

LABOUR INSPECTIONS (MAINTENANCE OF SECRECY)

Acts Nos.17 of 1953, 13 of 1972. AN ACT TO GIVE EFFECT TO A PROVISION OF THE INTERNATIONAL LABOUR CONVENTION (NO. 81) RELATING TO THE MAINTENANCE OF SECRECY BY LABOUR INSPECTORS.

[27th March, 1953.]

Short title. 1. This Act may be cited as the Labour Inspections (Maintenance of Secrecy) Act.

Maintenance of secrecy by officers having powers of inspection. 2. (1) No officer who, in the exercise or performance of his powers, functions or duties under any written law to which this section applies, acquires or obtains knowledge of or information concerning any manufacturing or commercial secret, shall, either while he is holding office or after he has ceased to hold office, disclose or communicate such secret to any other person except with the consent of the person carrying on the business to which such secret relates, or where such person is a company with the consent of the manager or other similar officer of the company.

[§2,13 of 1972.] (IA) No officer who, in the exercise or performance of his powers, functions or duties under any written law to which this section applies, acquires any information regarding the source of any complaint with reference to a breach of any of the provisions of that law, or any defect or abuse not specifically covered by such provisions, shall, either while he is holding office or after he has ceased to hold office, disclose any such information to any other person :

Provided that—

- (a) such information may be disclosed to any other officer or person exercising or performing any such powers, functions or duties who is concerned with such information in an official capacity, or
- (b) where it is not possible to proceed with an inquiry or investigation without disclosing such information

to an employer or his representative, such information may be so disclosed with the prior permission of the person who furnished such information and, where such information relates to any person, of the person to whom such information relates.

(2) Subsections (1) and (IA) shall apply to [§2,13 of 1972.] any written law by which power is conferred on any officer to enter and inspect any premises, or to call for or obtain information, for the purpose of—

- (a) ascertaining whether the provisions of that law relating to the conditions of work and the protection of workers while engaged in their work are complied with, or
- (b) supplying technical information and advice to employers and workers as regards the most effective means of complying with such provisions, or
- (c) bringing to the notice of the competent authority defects and abuses not specifically covered by such provisions.

(3) Every officer who acts in [§2,13 of 1972.] contravention of the provisions of subsection (1) or subsection (IA) of 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.

CHAPTER 517

LANKA JATIKA SARVODAYA SHRAMADANA SANGAMAYA

Act No. 16 of 1972. AN ACT TO INCORPORATE THE LANKA JATIKA SARVODAYA SHRAMADANA SANGAMAYA.

[3rd May, 1972.]

- Short title. **1.** This Act may be cited as the Lanka Jatika Sarvodaya Shramadana Sangamaya (Incorporation) Act.
- Incorporation of the Lanka Jatika Sarvodaya Shramadana Sangamaya. **2.** The members for the time being of the association known as the Lanka Jatika Sarvodaya Shramadana Sangamaya (hereinafter referred to as "the Association") shall be a body corporate (hereinafter referred to as "the Corporation") with perpetual succession, a common seal, and the name "Lanka Jatika Sarvodaya Shramadana Sangamaya". The Corporation may sue and be sued in such name.
- General objects of the Corporation. **3.** The general objects of the Corporation shall be the following :—
- (1) To provide, by means of Shramadana Camps and other constructive ways, adequate opportunities and the appropriate mental climate for the realization of the principles, the philosophy and the objects of Sarvodaya by the Shramadana Sewakas and Sewikas who volunteer to engage themselves in village development and community welfare projects.
- (2) To provide opportunities to the youth to acquire a correct understanding of the socio-economic and other problems of the country, and to organize educational and training programmes for them to learn ways and means of solving these according to the Sarvodaya philosophy.
- (3) To organize programmes with a view to the eradication of distrust and disintegration springing from differences such as of caste, race, creed and party-politics.
- (4) To disseminate qualities of selfless service, self-denial, co-operation, self-discipline and dignity of labour among the people of the land.
- (5) To encourage the development, especially in the youth of healthy views of social justice, equality, love of one's motherland and international brotherhood.
- (6) To develop self-confidence, co-operation and unity among the urban and rural communities and to evoke their inherent strength to bring about an all-round development in their spiritual, moral, social, economic and educational life.
- (7) To train and organize groups of youth who are ready to come forward and render voluntary service in times of national distress as well as in community development and social welfare programmes.
- (8) To collect and mobilize the maximum possible resources of the people such as their time, intelligence, energy, land, wealth, specialized skills and technological knowledge which they are prepared to donate of their own free-will, and utilize these scientifically to bring about the general economic and social progress of the people.
- (9) To help generally in the realization of the objects of the various institutions of the United Nations and especially to assist in the programmes of the Freedom From Hunger Campaign of the Food and Agricultural Organisation, the UNESCO and the WHO respectively, to eradicate hunger, illiteracy and disease from our world.
- (10) To promote the idea of the need for, and the importance of, the establishment of an International

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Shramadana Corps, under the auspices of the United Nations, through its member nations.

The affairs of the Corporation to be administered by an Executive Council.

4. (1) The affairs of the Corporation shall, subject to the rules for the time being of the Corporation, be administered by an Executive Council which shall consist of the office-bearers of the Corporation and other members elected to the Executive Council at the Annual General Meeting of the Corporation.

(2) The Executive Council may delegate any of its functions to one or more Standing Committees or Sub-Committees.

Register of Members.

5. (1) The General Secretary of the Corporation shall keep a register of the members of the Corporation.

(2) The Register of the members of the Corporation shall contain the following particulars:—

- (i) The name and full postal address of each member.
- (ii) The date of admission to membership.
- (iii) The date on which such member ceased to be a member.

Rules.

6. (1) The Corporation may, by a vote of two-thirds of the members present and voting at a General Meeting of the Corporation, make rules for admission to, and removal from, membership of the Corporation, for the performance of the duties of the office-bearers and other members of the Executive Council 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) The rules of the Corporation shall not be revised, rescinded or amended except at a special general meeting convened for the purpose and by a vote of not less than two-thirds of those present and voting.

(3) Written notice of the proposed additions, amendments and deletions shall

be forwarded to the Executive Council through the Honorary General Secretary, and the Executive Council shall decide by a majority vote of the members of the Council present, the additions, amendments and deletions which should be presented at a special general meeting, for approval.

(4) Subject to the provisions of subsections (1), (2) and (3) of this section, the rules set out in the Schedule* to this Act shall be the rules of the Corporation.

7. All debts of the Association existing at the commencement of this Act shall be paid by the Corporation and all debts due and fees, subscriptions and grants payable to the Association shall be paid to the Corporation.

Liabilities of and debts due to the Association.

8. The Corporation may acquire and hold any movable or immovable property by right of purchase, grant, gift, testamentary disposition or otherwise, and, subject to the rules for the time being of the Corporation, may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the Corporation.

The Corporation may hold property.

9. The seal of the Corporation may be altered at the pleasure of the Corporation. The seal shall not be affixed to any instrument whatsoever except in the presence of two office-bearers of the Corporation one of whom shall be the President or in his absence a Vice-President, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

Seal of the Corporation and the procedure for fixing it.

10. The General Secretary of the Corporation shall have the custody of the seal of the Corporation.

Custody of the Seal of the Corporation.

11. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other person, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 312

LOCAL LOANS

Ordinances AN ORDINANCE TO PROVIDE FACILITIES FOR THE GRANTING OF LOANS FOR LOCAL
Nos. 22 of 1916, PURPOSES OF PUBLIC UTILITY.

6 of 1930,
25 of 1931,
43 of 1938,
21 of 1942,

Act
No. 29 of 1949,

Law
No. 9 of 1974.

[5th August, 1916.]

Short title. **1.** This Ordinance may be cited as the Local Loans and Development Ordinance.

Commissioners. **2.** (1) For the purposes of this Ordinance the Minister may appoint a board of commissioners to be called "The Local Loans and Development Commissioners" (hereinafter referred to as "the commissioners").

[§ 2, Law 9 of 1974.] (2) The commissioners shall consist of at least five persons all of whom shall be appointed by the Minister, and—

- (a) one of whom shall be the Secretary to the Ministry who shall also be the Chairman thereof;
- (b) another of whom shall be the Commissioner of Local Government;
- (c) another of whom shall be a public officer nominated for such appointment, by name or by office, by the Minister or Ministers in charge of the subjects of Irrigation, Power and Highways ; and
- (d) another of whom shall be a public officer nominated for such appointment, by name or by office, by the Minister in charge of the subject of Finance.

(3) The commissioners from time to time so appointed, including all persons appointed to fill temporary and casual vacancies, shall constitute a body corporate,

and shall have perpetual succession and a common seal, and may sue and be sued in the name of "The Local Loans and Development Commissioners".

3. (1) The commissioners may from Staff. time to time appoint or employ a secretary, and such number of professional, clerical, or other officers as they may, with the consent of the Minister, deem necessary, and may from time to time assign to any persons so appointed or employed by them such salary or remuneration as they, with the sanction of the Minister in charge of the subject of Finance, may think proper.

(2) No commissioner shall receive any remuneration in consideration of the discharge of his duties:

Provided that nothing in this subsection contained shall preclude any commissioner from receiving such travelling allowance or other expenses as may be sanctioned by regulations made under this Ordinance.

4. It shall be the duty of the Duty of commissioners out of the fund provided by commissioners. this Ordinance from time to time, in accordance with the provisions of this Ordinance, to make loans for any of the purposes thereby authorized, on such terms as to security and repayment and otherwise as they may determine.

5. (1) The Minister may by Order Assignment of existing loans. published in the Gazette assign to the commissioners any loan already granted by the Government to any person, society, or [§ 3, Law 9 of 1974.]

body of persons, or to any local authority, including any loan converted under section 30 of this Ordinance, and thereupon all sums due in respect of the said loans shall become payable to the commissioners on the same terms and conditions as those on which prior to such assignment they were payable to the Government, and all securities for the payment of such sums shall be enforceable in the same manner as if they had been given in respect of a loan under this Ordinance.

(2) Every such loan shall for the purposes of this Ordinance be deemed to be a loan under this Ordinance.

Commissioners may obtain loans from Consolidated Fund, banks, &c. [§ 4, Law 9 of 1974.]

6. (1) The commissioners may, with the consent of the Minister, given with the concurrence of the Minister in charge of the subject of Finance, obtain loans from—

- (a) the Consolidated Fund ; or
 - (b) any commercial bank; or
 - (c) any Government-sponsored lending institution; or
- any local authority,

upon such terms as to the mode and time of payment and to the interest payable thereon as the Minister may, with like concurrence, determine.

(2) The total amount of the loans obtained under subsection (1) shall not exceed such limit as the Minister may, with the concurrence of the Minister in charge of the subject of Finance, fix from time to time.

Constitution of fund.

*8. (1) For the purpose of this Ordinance there shall be constituted a fund to be called *'The Local Loans and Development Fund " (hereinafter referred to as " the fund ").

(2) There shall be paid into the fund—

- (a) all such sums as may be appropriated to the fund by enactment or by resolution of Parliament:

- (b) all sums from time to time falling due in respect of any loan under this Ordinance;
- (c) all such sums as may be lent to the commissioners under this Ordinance or any other written law;
- (d) all other sums which may in any other manner become payable to the commissioners in respect of any matter incidental to their powers and duties under this Ordinance.

(3) There shall be paid out of such fund—

- (a) all such loans as may be granted by the commissioners;
- (b) all such sums in the way of contribution to the revenue of Sri Lanka as may from time to time be ordered by the Minister;
- (bb) all expenses incurred by the commissioners with the approval of the Minister in the administration of this Ordinance;
- (c) all such sums as may from time to time be payable, by way of principal or interest, on sums lent to the commissioners under this Ordinance or any other written law.

[§ 6, Law 9 of 1974-]

9. The commissioners may, with the approval of the Minister, grant loans for the following purposes:—

- (a) to any local authority for the purpose of any work of public utility which such authority may be authorized by law to undertake; and
- (b) to any person or body for any purpose of public utility.

Purposes for which loans may be granted. [§ 7, Law 9 of 1974.]

10. Every loan to a local authority under this Ordinance shall be subject to the limits of the borrowing powers of such local authority under any general or other enactment regulating its powers and duties,

Limits of borrowing powers.

• Section 7 is repealed by Law No. 9 of 1974.

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and for the purpose of the application of the said limits a loan under this Ordinance shall be deemed to be raised under the authority of such enactment.

14. The provisions of the Public Corporations (Financial Control) Act shall, *mutatis mutandis*, apply to the financial control and accounts of the board of commissioners-

Application of the provisions of the Public Corporations (Financial Control) Act. [§ 8, Law 9 of 1974.]

Regulations.

11. The commissioners, subject to the approval of the Minister, may make regulations for the following purposes :—

- (a) the proceedings of the board and the transaction of its business ;
- (b) the custody and use of its common seal and the manner in which documents shall be executed on its behalf;
- (c) the duties of its staff;
- (d) the conditions as to interest, security, repayment, or otherwise on which loans shall be granted ;
- (e) generally for the exercise of its powers and the discharge of its duties under this Ordinance.

14A. The financial year of the board of commissioners shall be the calendar year.

Financial year of the board of commissioners. (§ 9, Law 9 of 1974.)

15. (1) Before advancing any money on account of a loan, the commissioners shall take security for the repayment of the loan with the interest thereon, consisting of—

Security for loans.

- (a) a mortgage of immovable property; or
- (b) a mortgage of any rate or tax, together with (save as hereinafter provided) a personal security.

(2) The commissioners may, if they think fit, dispense with personal security in any case in which in their opinion the mortgaged property or rate is sufficient security for the payment of the principal and interest of the loan within the stipulated period.

(3) The commissioners may, if they think fit, in the case of any society registered or deemed to be registered under the Co-operative Societies Law dispense with any security other than an obligation binding upon the society and its members,

Minutes and proceedings.

12. (1) Any minute made of proceedings at meetings of the commissioners, if signed by any person purporting to be the chairman, either of the meeting of the commissioners at which such proceedings took place, or of the next ensuing meeting of the commissioners, shall be receivable in evidence in all legal proceedings, without further proof, and until the contrary is proved every meeting of the commissioners, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act.

(2) An act or proceeding of the commissioners shall not be questioned on account of any vacancy or vacancies in their body.

16. (1) For the purpose of providing security for any loan under this Ordinance, a local authority may, with the approval of the Minister, mortgage to the commissioners any rate or tax which the authority is by law authorized to make or impose, for such period as may be agreed upon.

Power of local authority to mortgage rate or tax.

(2) Where a loan is granted by the commissioners on the security of a mortgage of any rate or tax, whether with or without any other security, such rate or tax, from and after the date of the mortgage, shall be charged with the payment to the use of the Government of the loan with interest as in the mortgage mentioned.

Report.

13. (1) The commissioners shall annually cause to be made out for every financial year a report of their transactions under this Ordinance during the year.

(2) Every such report shall contain such particulars as the Minister may direct, and shall be published for general information in such manner as he may think fit.

17. Where a loan is granted by the commissioners on the security of a mortgage of any property, whether with or without

Charge on property and priority of loan.

any other security, the property from and after the date of the mortgage shall be charged with the payment to the use of the Government of the loan with interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage, or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been advanced in good faith before the loan advanced by the commissioners and secured by a duly registered mortgage of the property executed to a person who is entitled as a bona fide creditor to the repayment thereof with interest:

Provided that if there is more than one such creditor, and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, in such case the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan granted by the commissioners and to the said charge thereof, and to the security for the same.

Power where rate or tax in default.

18. (1) Where any loan under this Ordinance is secured by the mortgage of any rate or tax, whether with or without any other security, and default is made in making payment according to the terms of mortgage, it shall be lawful to the Minister, without prejudice to any remedy, to appoint an officer with the powers following :—

- (a) to make any rate or impose any tax which the local authority may make or impose for the purpose of fulfilling its obligations under the mortgage;
- (b) to receive and collect the proceeds of any rate or tax so made or imposed, or made or imposed by the local authority, and to pay such proceeds or so much thereof as the commissioners may require, for the purpose of defraying the amount due under the mortgage.

(2) Every officer so appointed shall have and may exercise the same powers,

authorities, and duties as if he had been appointed by the local authority, and it shall be the duty of all officers of the local authority to give to such officer all such assistance as he may require for the purposes aforesaid.

(3) Every such officer in making an estimate of the rate or tax to be made or imposed under this section may add such sum as he may think sufficient for defraying all costs, charges, and expenses, including remuneration to any officer or other person employed, incurred by such officer in the execution of his powers under this section, or otherwise incurred by the commissioners by reason of the default in payment.

19. Every sum payable to the commissioners in pursuance of any loan under this Ordinance shall be deemed to be payable to the use of the Government, and may be recovered in the same manner as a debt to the State under the State Debtors Ordinance.

Loans by commissioner! a State debt.

20. Where the commissioners grant a loan in aid of any work which is either partly completed or not commenced, they may by a bond to the Government or otherwise take such security for the application of the loan to the work, and for the due completion of the work, including the raising of sufficient funds for that purpose, as they may think sufficient for securing the interest of the public.

Security for completion of works partly finished or not commenced.

21. (1) Where a loan under this Ordinance has been advanced for any purpose on the security of any rate or tax, it shall be the duty of the commissioners to satisfy themselves that the loan is applied to such purpose, and they may from time to time make such examination as they may think necessary with a view to ascertain that such loan has been so applied.

Examination as to proper application of moneys lent.

(2) For the purpose aforesaid the commissioners may appoint any officer to conduct on their behalf any examination under this section, and such officer shall have the same powers to require the attendance of persons and the production of accounts and other documents, so far as such attendance or production is required for the purpose of such examination, as a District Judge has in relation to matters within his jurisdiction.

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Order of
commissioners
upon
examination

22. (1) Where upon any examination made in pursuance of section 21 it appears to the commissioners that any sum being the whole or part of the money raised by the loan has not been applied for the said purpose, the commissioners may order that sum to be, within the time named in the order, applied either for the said purpose or towards the repayment to the commissioners of the principal of the loan, or partly in one of such ways and partly in the other; and further, if it appears to them that the sum or any part thereof has been applied for some purpose other than that for which it was advanced, may by the same or any other order direct a sum equal to the amount so misapplied to be raised within the time and out of the fund, rate, or tax named in the order, and to be applied as directed by the order.

(2) An order made by the commissioners in pursuance of this section may be enforced by writ of mandamus.

Misapplication
of loan.

23. (1) If any loan or any part of any loan advanced under this Ordinance shall be applied to any purpose other than that provided for in the mortgage, the commissioners may, without prejudice to any other remedy provided by this Ordinance, by notice in writing addressed to the mortgagor, recall the said loan or any part thereof, and may require the same, or such part thereof, to be repaid on such date as may be specified in the notice, and any security given for the purpose of the loan shall be enforceable accordingly.

(2) If any mortgagor to whom any loan shall have been advanced under this Ordinance, or any person entrusted, or purporting to be entrusted, with the same or any part thereof, or with the application of the same or any part thereof, shall apply the same to any purpose other than that provided for in the mortgage, every such person—

(a) unless he proves that he acted in good faith and without knowledge that he was not entitled so to apply the same, shall be guilty of an offence and shall be liable, in addition to any civil liability, to a fine not exceeding the amount so misapplied;

(b) if he shall have acted wilfully and knowingly, shall be guilty of the offence of criminal breach of trust, and shall be liable to the punishment prescribed therefor.

24. Where any immovable property mortgaged as security for a loan granted under this Ordinance is sold for the purpose of the enforcement of the security, the commissioners may buy any such property at the sale, and may manage the same in accordance with regulations made under this Ordinance, and may sell or otherwise dispose of the same in such manner as they may think fit.

Enforcement of
securities.

25. (1) The commissioners may examine any persons willing to be examined on any matters connected with the execution of this Ordinance, and may for that purpose or otherwise for the purpose of the execution of this Ordinance administer an oath or affirmation and take any affidavit or declaration.

Power to
administer
oaths.

(2) Any person who, when examined by the commissioners in pursuance of this Ordinance or any regulation made under this Ordinance, wilfully gives false evidence, or who, for the purpose of obtaining a loan under this Ordinance, wilfully gives information to the commissioners which is false in any material particular, shall be guilty of an offence, and may be tried and punished in the same manner as if he had given false evidence in a judicial proceeding.

26. The commissioners may postpone for any time not exceeding five years the payment of any sum in respect of principal and interest, or either, due or to become due, in respect of a loan under this Ordinance for the purpose of any work or enterprise, upon such terms and conditions, for the completion and carrying out of such work or enterprise, and the ultimate payment of such principal and interest as they may authorize.

Suspension of
payment of
principal and
interest.

27. The commissioners may, subject to the prescribed regulations, if under the circumstances they think fit, accept any security in lieu of any security previously given to them or any part of such security, subject to such terms and conditions as they

Change of
security.

direct, so however that the substituted security shall be of the character which the commissioners might take if the loan were originally granted at the time of such substitution.

Power to extend time, compound, or release.

28. The commissioners, subject to the approval of the Minister, may from time to time extend the period for the repayment of any loan, or compound, or release any loan or any part thereof, subject to such terms and conditions as they may think fit.

Payment of loan before the same is due.

29. The commissioners may, if they think fit, at any time accept payment of the whole or any part of the principal and interest of any loan or other money secured by any mortgage under this Ordinance before the time when the same is due, and may release or convey the mortgaged property to the person paying the same, or as he may direct, upon such terms and conditions and in such manner and form as the commissioners may deem expedient.

Conversion of existing loans. [§ 10. Law 9 of 1974.]

30. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, direct that any loan advanced to any local authority before the commencement of this Ordinance, which is repayable by means of a sinking fund, shall be converted into a loan repayable by instalments of principal and interest, and such loan shall be converted accordingly, and thereupon the security given for the purpose of the repayment of the loan and the interest due in respect thereof before such conversion shall be deemed to have reference to such loan as converted, and shall be enforceable accordingly.

(2) Subject to any special agreement between the Government and the local authority, the terms of such conversion shall be as follows :—

- (a) all investments made for the purpose of the sinking fund shall be transferred to the Government in reduction of the amount due under the loan at the market value of the respective securities at the date of the transfer;
- (b) the annual amount payable in respect of principal and interest under the conversion shall not exceed the annual amount payable in respect of the sinking fund and interest under the original loan.

31. (1) Notices, directions, orders, and documents required by this Ordinance, or by any regulation made under this Ordinance, to be served or sent may, unless otherwise expressly provided, be served and sent by post, and until the contrary is proved shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that the letter containing the notice, direction, order or document was prepaid and properly addressed and put into the post.

Service of notices.

(2) Notices and documents required by this Ordinance, or by any regulation made under this Ordinance, to be served on the commissioners, may be so served by serving the same on their secretary, or by sending the same addressed to or delivering the same at the office of the commissioners.

32. All references to a mortgagor shall, if need be, be deemed to include a reference to the successors, heirs, executors, administrators, and assigns of, or other persons claiming through or under such mortgagor.

Meaning of mortgagor.

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

Interpretation, [§ 11, Law 9 of 1974.]

" commercial bank " has the same meaning as in the Monetary Law Act;

" Government-sponsored lending institution " means any Government-sponsored lending institution which is approved by the Minister, with the concurrence of the Minister in charge of the subject of Finance, for the purposes of section 6;

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

" Minister " means the Minister in charge of the subject of Local Government, and " Ministry " shall be construed accordingly;

" Secretary to the Ministry " shall include an Additional Secretary to the Ministry.

CHAPTER 508

LADY LOCHORE LOAN FUND

Acts
Nos. 38 of 1951
4 of 1953.

AN ACT TO ESTABLISH AND INCORPORATE A BOARD OF TRUSTEES OF THE FUND KNOWN AS THE LADY LOCHORE LOAN FUND, TO DECLARE THE PURPOSES TO WHICH THAT FUND SHALL BE APPLIED, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH.

[24th September. 1951]

Short title.

1. This Act may be cited as the Lady Lochore Loan Fund (Board of Trustees) Act.

provisions of subsection (5), appoint some other person to act in place of such member.

Establishment of Board of Trustees of the Lady Lochore Loan Fund.

2. (1) A board, constituted as hereinafter provided, is hereby established as the Board of Trustees of the Lady Lochore Loan Fund which was formed by the Reverend C. E. V. Nathanielsz of Colombo, with money donated by Lady Jean Lochore formerly of Ceylon and with contributions from the public, for the purpose of granting relief to persons in debt.

(4) Where an appointed member ceases to hold office at any time prior to the expiration of his term of office, the Minister in charge of the subject of Finance may, subject to the provisions of subsection (5), appoint some other person to be a member in his place.

(2) The board shall consist of the following eight members :—

(5) A person appointed as a member under subsection (3) or subsection (4) shall, if he is appointed to act for or succeed the member who is an officer of the General Treasury, be such an officer.

(a) the said Reverend C. E. V. Nathanielsz; and

(6) Any member vacating office by the effluxion of time shall be eligible for reappointment as a member.

(b) seven persons appointed as members by the Minister in charge of the subject of Finance, one of whom shall be an officer of the General Treasury:

3. (1) The said Reverend C. E. V. Nathanielsz shall, unless he vacates office as provided in section 4, hold office for his lifetime. Term of office of members.

Provided however that, if the said Reverend C. E. V. Nathanielsz ceases to be a member, the board shall consist of the seven members mentioned in paragraph (b) of this subsection.

(2) Every appointed member other than an appointed member referred to in subsection (3) or subsection (4) shall, unless he vacates office as provided in section 4, hold office for two years commencing on the date of his appointment.

(3) Where an appointed member is or is likely to be absent from Sri Lanka for a period exceeding one month or is unable to discharge the duties of his office for such a period by reason of ill health or for any other cause, the Minister in charge of the subject of Finance may, subject to the

(3) A person who is appointed to act as a member under subsection (3) of section 2 shall, unless he vacates office as provided in section 4, hold office until the resumption of duties by the member for whom he is appointed to act.

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(4) A person appointed as a member under subsection (4) of section 2 shall, unless he vacates office as provided in section 4, hold office during the remainder of the term of office of the member whom he succeeds.

Vacation of office by members.

4. A member shall vacate office—

- (a) if his appointment is terminated by order made by the Minister in charge of the subject of Finance, or
- (b) if he is adjudged by a competent court to be of unsound mind, or
- (c) if he is adjudged insolvent or bankrupt by a competent court, or
- (d) if he resigns office by writing under his hand addressed to the Minister in charge of the subject of Finance.

President of the board.

5. The member who is an officer of the General Treasury shall be the president of the board. He shall, if he is present, preside at every meeting of the board. If he is absent from any meeting of the board, a member elected from among the members present shall preside at that meeting.

Incorporation of the board.

6. The board shall be a body corporate with the name " The Board of Trustees of the Lady Lochore Loan Fund " and shall have perpetual succession and a common seal and may sue and be sued in such name.

Seal of the board.

7. (1) The board may at any time alter the seal of the board.

(2) The seal of the board shall not be affixed to any instrument except in the presence of two members who shall sign the instrument in attestation of their presence.

Transfer of assets and liabilities of the fund to the board.

8. All the assets of the fund as at the date on which this Act comes into operation, held in the name of the fund or in the name of the said Reverend C. E. V. Nathanielsz or of any other person in trust for the fund, and all the liabilities of the fund as at that date are hereby transferred to the board.

9. (1) It shall be the duty of the board to administer the fund in accordance with the provisions of this Act.

Duties and powers of the board.

(2) The board may-

- (a) acquire any property, whether movable or immovable, by right of purchase, gift, grant, testamentary disposition or otherwise;
- (b) sell, mortgage, exchange or otherwise dispose of, or deal with any property, whether movable or immovable, to which the board may become entitled; and
- (c) perform all such acts as may be necessary for the discharge of the duties of the board.

10. The board may delegate such of its powers or duties as it may determine to the managing trustee alone or to the managing trustee and to one or more of the other members of the board, and may from time to time revoke any such delegation either wholly or in part. Any act done under the authority of a delegation under this section shall have the like force and effect as if done by the board.

Delegation of powers and duties of the board.

11. The board may appoint one of the members to be the managing trustee who shall carry out the directions of the board for the administration of the fund. The managing trustee may be paid such remuneration for his services as the board may, with the concurrence of the Minister in charge of the subject of Finance, determine.

Managing trustee.

12. The board may appoint such officers and servants as may be necessary for the administration of the fund on such remuneration and on such other conditions of service as the board may, with the concurrence of the Minister in charge of the subject of Finance, determine.

Officers and servants.

13. The board may authorize two or more officers of the board to exercise and perform jointly any power or duty of the managing trustee under this Act.

Delegation of powers and duties of managing trustee to officers of the board.

Payments to the Fund.

14. All moneys received by the board as gifts or as income from any property of the board or otherwise shall be credited to the Fund.

other condition applicable to a loan made out of the accepted sum shall be determined by the board having regard to the conditions, if any, specified in that behalf by the grantor or lender of that sum.

Purposes to which the fund may be applied.

15. (1) The fund shall be utilized by the board for the purpose of lending to such persons in debt as the board may consider deserving of help such sums of money for the settlement of their debts, at such rates of interest, and on such terms of repayment of the principal, as the board may determine. The decision of the board on any application for a loan of money shall be in the absolute discretion of the board and shall not be liable to be questioned in any court.

(d) Any money received or recovered by the board as the interest or principal due on any loan made out of the accepted sum shall be credited to the separate account in which that sum is deposited.

(e) Where the accepted sum consists of a loan to the board, any money for the time being in the separate account in which that sum is deposited may be applied in payment of the interest and principal due on that loan.

(2) The remuneration of the managing trustee and of all the officers and servants employed by the board and the auditor's fees and all other expenses of administering the fund shall be paid out of the fund.

Grants and loans to the board subject to conditions.

16. (1) The board may accept from the Government or from any person or body of persons a grant or loan of any sum of money subject to the condition that it shall be applied for the purpose of settling the debts of persons of the description or class specified by the grantor or lender and to such other conditions as may be so specified.

17. The board shall cause accounts of the fund to be kept regularly and shall cause the accounts in respect of each year to be audited by a competent auditor elected annually by the board and paid such fees as the board may, with the concurrence of the Minister in charge of the subject of Finance, determine.

Accounts of the fund.

(2) Where in terms of subsection (1) the board accepts any sum of money (hereinafter in this subsection referred to as the "accepted sum"), the following provisions shall, notwithstanding anything to the contrary in this Act, apply in relation to that sum :—

18. (1) The board may maintain in its name accounts in any banks in Sri Lanka.

Bank accounts of the board

(2) The board may authorize the managing trustee or any other member of the board or two or more officers of the board jointly to operate on the funds lying to the credit of the board in any bank.

(a) The accepted sum shall be deposited in the fund in a separate account.

19. No act done by the board shall be invalid by reason only of the fact that at the time the act was done there was a vacancy in the board or there was any defect in the appointment of any member.

Matters not invalidating acts of the board.

(b) No loan out of the accepted sum shall be made to any person other than a person of the description or class specified by the grantor or lender of that sum.

20. (1) The board may make rules regarding the meetings of the board, accounts of the fund and all other matters for which rules are considered necessary by the board.

Rules.

(c) The rate of interest, the terms of repayment of the principal and any

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(2) Every rule made by the board under this section shall come into effect from the date on which it is published in the Gazette.

(3) Any rule made by the board may be amended or rescinded by the board by a rule made and published in the manner provided by the preceding provisions of this section.

Saving of the rights of the Republic and other

21. Nothing in this Act shall 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 by, from, through, or under them.

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

"appointed member" means a member other than the said Reverend C.E.V. Nathamelsz;

"board" means the board of trustees established and incorporated by this Act;

"fund" means the Lady Lochore Loan Fund mentioned in section 2; and

"member" means a member of the board.

CHAPTER 506

LANKA MAHILA SAMITI

Ordinance No. 45 of 1947. AN ORDINANCE TO INCORPORATE THE LANKA MAHILA SAMITI.

[2nd July, 1947.]

- | | | |
|---------------------------------------|---|---|
| Short title. | 1. This Ordinance may be cited as the Lanka Mahila Samiti Ordinance. | aims and objects of mahila samiti, that is to say :— |
| Incorporation of Lanka Manila Samiti. | 2. From and after the date of the commencement of this Ordinance, the president, vice-president and other members of the Lanka Mahila Samiti (hereinafter referred to as "the association"), and such and so many persons as may hereafter be members of the association for the time being shall become and be a corporation with continuance for ever under the name and style of "The Lanka Mahila Samiti" and by that name shall and may 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. | <ul style="list-style-type: none"> (a) social intercourse, irrespective of caste, race or creed, (b) agricultural enterprise, (c) cottage industries, (d) homecraft and mothercraft. (e) co-operative enterprise, (f) social hygiene, (K) thrift, (h) interest in hospitals, welfare centres and other similar institutions. |
| Objects. | 3. The general objects of the association are hereby declared to be— | |
| | <ul style="list-style-type: none"> (1) to promote and assist the establishment in Sri Lanka of women's associations or mahila samiti, with the object of furthering concerted work among women for their educational, social and economic progress and advancement and generally of carrying on propaganda designed to further the uplift of the women of Sri Lanka; (2) to act as a central federation of mahila samiti throughout Sri Lanka and to assist in the furtherance of the objects and interests of such samiti; (3) to take steps for the appointment and constitution in the provinces of Sri Lanka of provincial committees for the promotion and encouragement of the following | <ul style="list-style-type: none"> 4. (1) The control and management of the affairs of the association, including the power to expend the funds of the association and to deal with or dispose of movable or immovable property in the name of the association, shall, subject to this Ordinance and to the rules for the time being in force, be vested in a central board constituted as hereinafter provided. Central board. (2) The central board shall consist of- <ul style="list-style-type: none"> (a) nine members of the association elected, in accordance with the rules, at each annual general meeting of the association; |
| | <ul style="list-style-type: none"> (3) to take steps for the appointment and constitution in the provinces of Sri Lanka of provincial committees for the promotion and encouragement of the following | <ul style="list-style-type: none"> one representative of each provincial committee elected by such committee in accordance with the rules, or where no provincial committee is for the time |

being constituted for any province of Sri Lanka, a person elected by the other members of the board to represent such province, being a person who is a member of an affiliated samiti;

(c) one representative of each of the following departments nominated by the head of the department:—

- (i) the Department of Agriculture,
- (ii) the Department of Education,
- (iii) the Department of Health,
- (iv) the Department of Commerce and Industries,
- (v) the Co-operative Department,
- (vi) the Marketing Department;

(d) one representative of the vernacular guides;

(e) one representative elected by the trained organizers of the association;

(f) any other persons who may be co-opted by the other members of the board so that the total number of the board may not exceed twenty-nine.

(3) The president, vice-president and secretary for the time being of the association shall, in addition, be respectively the president, vice-president and secretary of the central board.

(4) The first central board shall consist of-

- Miss C. Cooray (President)
- Mrs, F. B. de Mel (Hony. Treasurer)
- Mrs. O. L. F. Senaratne (Hony. Secretary)
- Mrs. S. W. R. D. Bandaranaike
- Mrs. H. R. Goonewardene
- Mrs. A. M. de Siiva
- Dr. (Mrs.) Mary Ratnam
- Mrs. K. Vaithianathan
- Lady de Soyza

Representative of the North-Central Province:

- Do. Western Province
- Do, Uva Province
- Do, Southern Province
- Do. Central Province
- Do. North-Western Province
- Do. Sabaragamuwa Province

Co-opted members: Dr. Andreas Nell
Devar Surya Sena
Mrs. T. L. C. Rajapakse
Mrs. Lionel de Fonscka

Representatives of Government departments :

- Co-operative Department Mr. S. C. Fernando
- Agricultural Department Dr. W. R. C. Paul
- Commerce and Industries Mr. V. S. M. de Mcl
- Education Miss Westrop
- Health
- Girl Guide Association Miss Ray Blaze

5. (1) It shall be lawful for the Rules. association from time to time in general meeting, and by a majority of the votes of the members present thereat, to make rules for the management of the affairs of the association and the accomplishment of its objects and purposes; and without prejudice to the generality of the powers hereinbefore conferred, such rules may provide—

- (a) for the admission, withdrawal and expulsion of members;
- (b) for the conduct of the functions and duties of the central board and the various officers, agents and servants of the association;
- (c) for the constitution and appointment of provincial committees;
- (d) for the conditions subject to which mahila samiti may be affiliated to the association;

- (e) for the conduct and supervision of the affairs of affiliated samiti and the circumstances in which any such affiliation may be revoked ;
- (f) for the procedure for the transaction of business, whether at meetings of the association or by the central board;
- (g) for the sums from time to time to be payable as subscription by members of the association and the penalties to be attached in cases of default.

vested or acquired or held by it, and may also from time to time sell, grant, convey, demise, assign, exchange and dispose of or mortgage any property for the time being vested in the association. The association may invest its funds in any securities authorized as a trustee investment by the law of Sri Lanka or upon any mortgage of movable or immovable property in Sri Lanka.

(2) The rules set out in the Schedule* to this Ordinance shall be deemed to be rules made by the association under subsection (1) and may accordingly be altered, amended, added to or revoked by rules which may hereafter be made under and in accordance with the provisions of that subsection.

(3) Notwithstanding anything in subsection (1) of section 4, the central board shall not in the name of the association acquire any immovable property by purchase, or sell, grant, convey, demise, assign, exchange or dispose of any immovable property, or invest any of the funds of the association upon any mortgage, except with the consent of the association first had and obtained in general meeting.

Power to hold and deal with property.

6. (1) The association shall at all times hereafter be able and capable in law 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 term, subject to any express trust or otherwise, any property movable or immovable of any nature or kind whatsoever.

7. The seal of the association shall not be affixed to any instrument whatsoever except in the presence of the chairman and one other member of the central board, who shall sign their names to the instrument in token of their presence, and such signatures shall be independent of the signature of any person as a witness.

Seal of the association.

(2) The association may erect or cause to be erected any building on any land

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 person, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving as to the rights of the Republic and others.

* Schedule omitted.—Private enactment.

CHAPTER 609

LICENSING OF CLUBS

Law A LAW TO PROVIDE FOR THE CONTROL OF CLUBS AND FOR MATTERS CONNECTED
No. 17 of 1975, THEREWITH OR INCIDENTAL THERETO.
Act
No. 14 of 1980.

[1st July. 1975.]

Short title. **1.** This Law may be cited as the Licensing of Clubs Law.

Prohibition of maintenance of unlicensed clubs. **2.** (1) Within the administrative limits of any local authority no club shall—

- (a) if it is formed before the appointed date, continue to be maintained after the expiry of three months after that date, or
- (b) if it is formed on or after the appointed date, continue to be maintained after the expiry of two months after the date of its formation,

except under the authority of a licence issued by the Chairman of such local authority,

[§ 2, 14 of 1980.]

(IA) Notwithstanding anything in subsection (1), no club formed on or after the specified date shall be maintained within the administrative limits of any local authority except under the authority of a licence issued by the Chairman of such local authority.

In this subsection, "specified date" means such date as may be specified by the Minister for the purposes of this subsection by Order published in the Gazette.

(2) Every application for a licence shall be—

- (a) sent in triplicate to the Chairman of the local authority;
- (b) in writing;
- (c) accompanied by the appropriate licence fee and an application fee of ten rupees except where an exemption is claimed under section 5 ; and
- (d) signed by the secretary, president or manager of the club in respect of which such licence is required and

such application shall contain the residential address of such secretary, president or manager and the location of the premises of the club.

(3) Where any club is maintained in contravention of subsection (1) or subsection (IA), the secretary, president or manager of such club shall each be guilty of an offence under this Law. [§ 2, 14 of 1980.]

3. A licence issued by a local authority may be in such form as may be prescribed by such authority and shall, subject to the provisions of section 14, remain in force until the thirty-first day of December next following the date on which the licence is granted and shall be renewable annually, on fresh application made. Form and duration of licence.

4. The Minister may prescribe in respect of every local authority the scale of fees payable in respect of a licence to maintain a club and the scale of fees so prescribed shall be published in the Gazette : Fees payable for licence.

Provided, however, that the fees so prescribed shall not exceed the following limits:— [§3, 14 of 1980.]

	Rs.
(a) in the case of the Colombo Municipal Council . .	5,000
(b) in the case of any other Municipal Council . -	5,000
(c) in the case of any Urban Council	1,500
(d) in the case of any Town Council or Village Council ..	350

Exemption from licence fee.

5. Notwithstanding the provisions of sections 3, 4 and 26, the following associations shall be exempt from the licence fee :—

- (a) any club certified by the Director of Sports or by a public officer authorized by such Director as a club formed solely for social, recreational or cultural purposes or for the purpose of any sporting activity;
- (b) any club the membership of which is restricted to employees of any Government department or a public corporation and which is so certified by the head of such Government department or by the chief executive officer of such corporation ;
- (c) any religious association as may be determined by the Chairman ; and
- (d) any club the membership of which is restricted to employees of any local authority and which is so certified by the Chairman.

Chairman's duties on receipt of application.

6. Upon receipt of an application for a licence or for a renewal of a licence, the Chairman shall—

- (a) forward a copy of such application to the Superintendent of Police ;
- (b) forward a copy of such application to the Excise Commissioner who shall within two weeks of the receipt of the application cause a report thereon to be furnished to the Chairman:
- (c) cause to be published a notice in the Gazette—
 - (i) stating that the application has been made and specifying the name of the applicant, the name of the club and the premises at which the club is carrying on or intends to carry on its activities; and
 - (ii) calling upon any person residing in the neighbourhood of the said club or in the

neighbourhood of the premises intended for the said club who desires to object to the issue of such licence to furnish to the Chairman in duplicate within four weeks of the date of the notice a written statement of the grounds of his objections.

7. The Superintendent of Police shall on receipt of the copy of any application under paragraph (a) of section 6, make a report to the Chairman within four weeks of the date of receipt of such copy stating whether he recommends or not the issue or the renewal, as the case may be, of the licence and giving his reasons therefor.

Report of Superintendent of Police. [§ 4, 14 of 1980]

8. The Chairman shall cause a copy of every statement of objections furnished to him under sub-paragraph (ii) of paragraph (") of section 6 in respect of any application to be served on the applicant.

Copy of statement of objections to be served on the applicant.

9. (1) Where there is no objection to an application for a licence from any of the persons specified in section 6, and where the Superintendent of Police recommends the issue or renewal of the licence, the Chairman shall make an order allowing the application and shall cause a copy of such order to be served on the applicant, the Superintendent of Police and the Excise Commissioner.

Chairman to make order.

(2) Where objection is taken to an application for a licence by any of the persons specified in section 6, the Chairman shall, after giving the applicant and each objector an opportunity of being heard, make order allowing or disallowing the application. The order shall contain a statement of the grounds upon which it is made, and the Chairman shall cause a copy thereof to be served on the applicant, the Superintendent of Police, the Excise Commissioner and on every person who has taken objection to the application.

10. Any applicant for a licence, the Superintendent of Police, the Excise Commissioner, or any person who objects to the issue of such licence may, if he is aggrieved by the order of the Chairman, within ten days from the date of the service on him of the order, appeal against the order to the Minister in the manner set out in section 12.

Appeal against order of Chairman.

11. An order under subsection (2) of section 9 shall have no effect until—

Effect not to be given to order in certain circumstances.

- (a) the period within which an appeal may be made under section 10 against such order has expired ; or

(b) where an appeal is preferred, until the Minister confirms the order.

Statement of grounds of appeal.

12. Every appeal under section 10 or section 15 shall be preferred by a written statement setting out the grounds of such appeal. Every such appeal other than an appeal by the Superintendent of Police or the Excise Commissioner under section 10 shall bear a stamp or stamps to the value of five rupees, and shall be sent to the Chairman, who shall, after cancelling such stamp or stamps, send such appeal to the Minister within ten days of the receipt thereof.

Minister's decision to be final.

13. The decision of the Minister on any appeal whether confirming or setting aside an order of the Chairman under section 9 or section 15 shall be final and conclusive and shall not be questioned in any court.

Right of persons to form a club.

14. In the exercise of the powers under subsection (2) of section 9 or section 13, due regard shall be had to the right of persons to form a club for social, recreational or cultural purposes or for the purpose of any sporting activity, but subject however, to the interest of public order, public health or morals and the protection of the rights and freedoms of others living in the neighbourhood.

Cancellation and revocation of licences.

15. (1) The Chairman may by order at any time cancel and revoke the licence of any club if on a written report from the Superintendent of Police, he is satisfied that—

- (a) the club is not conducted in good faith as a club ; or
- (b) the premises of the club are used for any unlawful purpose , or
- (c) there is frequent drunkenness and disorderly behaviour on the premises of the club ; or
- (d) persons who are not members of the club or guests of such members are permitted to enter and remain on the premises of the club for the purpose of obtaining intoxicating liquor; or
- (e) persons are admitted as members without an interval of at least four weeks between their nomination for membership and their election as members; or
- (f) there is lewd entertainment within the premises of the club ; or

(g) the premises of the club are used for immoral purposes; or

(h) the club has ceased to exist.

(2) The order under subsection (1) shall contain a statement of the grounds upon which it is made and a copy thereof shall be served on the president, secretary or manager of the club.

(3) The president, secretary or manager of any club may within fourteen days from the date of service on him of the order appeal against the said order to the Minister in the manner set out in section 12.

(4) An order under subsection (1) revoking a licence shall have no effect until—

(a) the period within which an appeal may be made under subsection (3) against such order has expired ; or

(b) where an appeal is preferred, until the Minister confirms the order.

16. (1) The following provisions shall apply to any premises in respect of which a licence has been issued under this Law :—

Standards applicable to premises.

(a) the club-house shall be substantially built and shall be in good repair and every room shall be adequately ventilated and shall have proper lighting facilities ;

(b) no wall of a building forming part of the premises shall be less than nine feet in height;

(c) the eaves of any building forming part of the premises shall not be less than seven feet from the ground ;

(d) the roof shall be made of permanent or semi-permanent material;

(e) the woodwork of the building comprising the premises shall be painted ;

(f) the ground floor of the club-house shall be cemented;

- (g) there shall be adequate drainage facilities to the premises ;
- (h) there shall be an adequate supply of water to the premises together with a supply of drinking water ;
- (i) where cooking is done in the premises a separate room shall be kept apart as a kitchen with an adequate outlet for smoke;
- (j) fire-fighting equipment of any nature adequate for the purpose of fighting a fire within the premises shall be maintained within such premises;
- (k) facilities for the parking of vehicles shall be provided within the premises where the access to such premises is along a roadway which is less than thirty feet in width.

(2) Where the premises of any club do not conform to the provisions of subsection (1), the Chairman may, by written notice to the president, secretary or manager of such club, request such president, secretary or manager to take all necessary steps to comply with such notice before a date to be specified in the said notice. The Chairman may, at his discretion, extend the period of time specified in the said notice.

Rules of a club to be sent to the Chairman within a specified period.

17. (1) The rules of a club licensed under this Law shall contain provisions relating to the following matters:—

- (a) the election of ordinary, associate and honorary members and the admission of temporary members and guests;
- (b) the election of the secretary and other office-bearers of the club ;
- (c) an interval of not less than four weeks between the nomination of any person for membership and his election as a member;
- (d) the rate of any subscriptions and entrance fees that are payable ;
- (e) the manner of terminating membership;
- (f) the days on which, and the hours at which, the premises of the club are open and closed ; and

(g) the mode of altering the rules.

(2) Where a club has, at the time the licence is granted, rules containing provisions relating to the matters specified in subsection (1), the president, secretary or manager of the club shall, within thirty days after the licence is granted, send to the Chairman a copy of such rules certified by him to be a true copy thereof.

(3) Where a club has at the time the licence is granted no rules or rules which contain provisions relating to only some of the matters specified in subsection (1):—

- (a) the members of the club shall within three weeks after the grant of the licence make rules containing provisions relating to such matters or amend the existing rules in such manner that such rules as amended will contain provisions relating to all such matters;
- (b) the president, secretary or manager of the club shall, within one month after the date of the completion of the making of the rules, or the amendment of the rules, as required by paragraph (a) of this subsection, send a copy of the rules so made or amended to the Chairman.

18. The Chairman may, by order at any time cancel and revoke the licence of any premises where he is satisfied that there has been a breach of all or any of the provisions of sections 16, 17-or 19 of this Law, and the provisions of subsections (2), (3) and (4) of section 15 shall, *mutatis mutandis*, apply to any such order and to any appeal thereon.

Cancellation and revocation of licences in certain circumstances.

19. There shall be kept on the premises of every club—

- (a) a copy of the rules and by-laws of the club with all amendments thereto signed by the president, secretary or manager of such club;
- (b) a register of ordinary members setting out the address of each member together with his signature or left thumb impression, as the

Books, registers and documents to be kept on the premises.

case may be, and the record of the last payment made by such member in respect of his subscription ;

- (c) a separate register of temporary members, honorary members and associate members, showing in each case the address of each such member together with the signature or left thumb impression, as the case may be, of such member;
- (d) a minute book recording the business transacted at all general meetings of the members of the club and a minute book recording the business transacted at all meetings of the committee of the club ; and
- (e) such other registers, accounts and documents as may be prescribed.

Power to inspect registers, accounts and documents.

20. It shall be lawful for the Chairman or any officer authorized by him in writing or any police officer of a rank not below that of Sub-Inspector or of any excise officer of a rank not below that of Inspector at any reasonable time to enter the premises of a club and call for and inspect all registers, accounts and documents required by or under this Law to be kept on the premises, and take copies of the whole or any part of any such register, account or document.

Application of Excise Ordinance, &c.

21. A licence under this Law shall not be deemed in any way to authorize or permit the keeping, sale, supply or consumption within the premises of any club of any intoxicating liquor in contravention of, or otherwise than in accordance with, the provisions of the Excise Ordinance or any other written law applicable in that behalf.

This Law not to apply to any naval, military or air force canteen or mess.

22. The provisions of this Law shall not apply to any canteen or mess of the Sri Lanka Police or of any naval, military or air force lawfully raised or stationed in Sri Lanka.

Licence fees to be credited to fund of local authority.

23. All fees recovered by a local authority under this Law shall be credited to the appropriate fund of such local authority.

24. (1) Every person who commits an offence under this Law or under any regulation made thereunder shall, on conviction after trial before a Magistrate, be liable, notwithstanding the provisions of the Code of Criminal Procedure Act or any other law, to imprisonment of either description for a period not exceeding six months or to a fine not exceeding five thousand rupees or to both such fine and imprisonment.

Offences and penalties. [§ 5, 14 of 1980.]

(2) Where a fine imposed under this Law is recovered the court may direct that such fine or such part of the fine as is equivalent to the fees payable to the local authority as is prescribed by the Minister under section 4 of this Law, be paid to the fund of the local authority within the administrative limits of which the club in relation to which the offence was committed is situate.

25. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law and to provide for any matter required by this Law to be prescribed.

Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

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

26. In this Law unless the context otherwise requires—

Interpretation.

appointed date' means the 1st day of July, 1975;

" Chairman "—

- (a) in relation to any Municipal Council, means the Mayor of that Council;
- (b) in relation to any other local authority, means the Chairman of that local authority;

" club " means a voluntary association of persons which has been formed for social, recreational or cultural purposes or for the purpose of any sporting activity or for any combination of such purposes ;

"Excise Commissioner" includes the Superintendent of Excise in charge of the area in which the club in respect of which a licence is required is situate;

"intoxicating liquor" has the same meaning assigned to the expression * liquor " in the Excise Ordinance ;

" local authority " means any Municipal Council, Urban Council, Town Council, or Village 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 capital wholly or partly provided by the Government by way of grant, loan or other form; and

" Superintendent of Police" means the Superintendent of Police in charge of the area in which the club in respect of which a licence is required is situate.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 126

LICENSING OF PRODUCE BROKERS

Act
No. 9 of 1979.

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF A PRODUCE BROKER BY THE INTRODUCTION AND OPERATION OF A SYSTEM OF LICENSING, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[9th February, 1979.]

Short title.

1. This Act may be cited as the Licensing of Produce Brokers Act.

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

Prohibition of the carrying on of the business of a produce broker without a licence.

2. (1) The Minister may, by Order published in the Gazette, declare that, with effect from such date as shall be specified in the Order (hereafter referred to as the "appointed date"), no person shall carry on business as a produce broker except under the authority of licence issued in that behalf by any appropriate authority under this Act.

(a) subject to the provisions of this Act the circumstances in which licences may be granted or refused ;

(b) the person to whom and the period for which licences may be granted ;

(2) No licence shall be issued under this Act to any body corporate which is a company, unless it has been or is formed and registered under the Companies Ordinance*.

(c) the mode and manner in which applications for licences may be made and disposed of;

(3) (a) No licence shall be issued under this Act to any person who does not comply with the terms and conditions set out in the Schedule hereto.

(d) the furnishing of all such statements and declarations relating to the business carried on by a produce broker as may be necessary for ensuring that the provisions of this Act or any regulations made thereunder are complied with;

(b) Where a licence has been issued to any person under this Act and such person acts in violation of any of the terms, and conditions set out in the Schedule hereto, the appropriate authority may by order, suspend for any period specified in such order, or cancel, such licence.

(e) the standards to be observed by produce brokers and the prohibition of acts or omissions in contravention of such standards.

(4) No licence shall be issued by any appropriate authority to any person under this Act, except upon the payment by such person to such authority of the prescribed fee.

3. (1) No licence issued under this Act to any person shall be transferable to any other person, and accordingly any such transfer shall be null and void. Licences not transferable.

(5) The Minister may, from time to time, by Order published in the Gazette, appoint any person, by name or by office, to be an appropriate authority for the purposes of this Act.

(2) No licence issued under this Act to any person shall be used for the benefit of any other person.

*Repealed and replaced by the Companies Act, No. 17 of 1982.

No compensation for any loss incurred by reason of a licence not being issued to any person who prior to the appointed date carried on business as a produce broker-

Suspension or cancellation of licences.

4. No person who, prior to the appointed date, carried on business as a produce broker shall be entitled to compensation for any loss incurred by him, whether directly or indirectly or by way of business or otherwise, by reason of a licence to carry on such business after the appointed date not being issued to him under this Act.

5. (1) If the appropriate authority by whom a licence has been issued to any person to carry on business as a produce broker is of opinion that such person is unfit to carry on such business for the reason that—

- (a) he is an undischarged bankrupt or is insolvent; or
- (b) he is convicted of any offence involving moral turpitude ; or
- (c) he is, under any law in force, found or declared to be of unsound mind ; or
- (d) he persists in disobeying the instructions given by the appropriate authority,

he may by order, suspend for any period specified in such order, or cancel, such licence.

(2) No order under subsection (1) shall be made against a person carrying on business as a produce broker except after notice to him to show cause within such period as may be specified in the notice, why such order should not be made, and except on his failing to show cause within such period, or on his not showing sufficient cause.

(3) Any person carrying on business as a produce broker against whom an order is made under subsection (1) may prefer an appeal in writing to the Minister before the expiry of ten days after the date on which such order is communicated to that person by or on behalf of the appropriate authority by whom such order was made, and the Minister may, in dealing with any appeal preferred to him, affirm, vary or annul the order against which the appeal has been preferred.

(4) An order under subsection (1) suspending or cancelling a licence issued to a person to carry on business as a produce broker shall come into force on the date on which such order is communicated to that person by or on behalf of the appropriate authority by whom such order was made, and shall continue to be in force notwithstanding that an appeal against such order has been preferred to the Minister.

(5) Any notice required to be given, or any order required to be communicated under the preceding provisions of this section, to any person shall be deemed to have been served or communicated on or to him after the expiry of a period of two days reckoned after the date of despatch of such notice or order by letter sent by registered post to his usual place of business or residence.

(6) The decision of the Minister upon an appeal shall be final and conclusive for all purposes whatsoever, and shall not be called in question in any court or tribunal, whether by way of appeal or writ, or in any other manner whatsoever.

6. Any appropriate authority may issue to any person carrying on business as a produce broker, any such directions as he may think necessary for the purpose of making such person comply with the provisions of this Act or any regulations made thereunder, and the person to whom any such directions are issued shall comply with any such directions within such time as shall be specified therein.

Power to issue directions to produce brokers.

7. Any appropriate authority by whom a licence may be issued under this Act, or any prescribed officer, may—

Power of entry and inspection.

(a) for the purpose of ascertaining whether the provisions of this Act or any regulations made thereunder are being complied with, enter and inspect at all reasonable hours of the day or night the premises in which the business of a produce broker is carried on; and

(b) inspect, and take copies of, any records required by or under this Act to be kept in respect of the business of a produce broker and of any other records relating to such business.

Maintenance of records.

8. Every person carrying on business as a produce broker shall maintain such records as may be prescribed.

12. Where an offence under this Act is committed by a body of persons, then—

Liability of certain persons in respect of offences committed by bodies corporate or unincorporate.

Regulations.

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

(a) if that body of persons is a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of that body corporate; or

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of any matter required by this Act to be prescribed or in respect of which regulations are authorized by this Act to be made.

(b) if that body of persons is a firm, every person who at the time of the commission of the offence was a partner of that firm,

(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.

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette.

13. Where any person carrying on business as a produce broker is convicted by a court of any offence under this Act and no appeal against the conviction is preferred, or the conviction is confirmed in appeal, any appropriate authority may without notice, cancel his licence to carry on such business. The decision of the appropriate authority to cancel such licence under this section shall be final and conclusive, and shall not be called in question in any court or tribunal, whether by way of appeal or writ, or in any other manner whatsoever.

Power to cancel licences on conviction of produce brokers.

Offences.

10. Any person who acts in contravention of any provision of this Act or any regulations made thereunder, or 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.

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

Interpretation.

"appropriate authority" in any context relating to a licence, means any person who, by name or by office, has been appointed to be such authority by the Minister by Order published in the Gazette under subsection (4) of section 2;

"licence" means a licence to carry on business as a produce broker issued by any appropriate authority to any person under this Act;

"prescribed" means prescribed by regulations made under this Act; and

Penalties.

11. 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 exceeding five thousand rupees or to imprisonment of either description for a period not exceeding one year, or to both such fine and imprisonment.

"produce broker" means any individual, firm or company engaged in the business of—

(a) broking in tea, rubber or coconut produce; or

(b) actively participating in the marketing of tea, rubber or coconut produce through the existing auction system and the systems outside the auction system.

[Section 2.]

SCHEDULE

TERMS AND CONDITIONS OF A LICENCE ISSUED UNDER THIS ACT

1. The produce broker should be registered as a broker under the Auctioneers and Brokers Ordinance.
2. The produce broker should show financial stability to conduct the trade of produce broking.
3. Proof of sufficient warehousing and storage space should be produced by the produce broker.
4. Details of the premises on which produce broking is to be carried on should be furnished by the produce broker.

CHAPTER 87
LOST PROPERTY

Regulation No. 15 of 1823.
Ordinance No. 26 of 1917.

REGULATION FOR MAKING A GENERAL PROVISION IN RESPECT TO PROPERTY FOUND.
[25th October. 1823.]

Short title.

1. This Regulation may be cited as the Lost Property Regulation.

to the property so found, one-tenth of the value thereof; and if no claimant shall appear or prove his right to the property within the period of six months, then the Magistrate shall cause the same to be sold, if the same be not money and shall pay one-half of the proceeds, or of the money, to the finder, and the remainder into the Treasury to the credit of the Consolidated Fund.

Persons finding property to bring it to the police officer or grama seva niladhari who is to report the same to the nearest Magistrate. Magistrate to publish the circumstance. If claimant appear. If no claimant.

2. Any person throughout Sri Lanka who may find any money or goods, of whatsoever description the same may be, do and shall bring the same forthwith to the police officer or the grama seva niladhari of the division or village in which the same may be found, which said police officer or grama seva niladhari shall forthwith report the circumstance to the nearest Magistrate, who shall cause public notice to be given of the same; and the finder shall, if no fraud appear to have been by him committed in the matter, receive from the person who may substantiate, within six months, a right

3. Any person who shall be convicted of a breach of this Regulation shall be subject to punishment by fine or imprisonment, either with or without being employed at hard labour, at the discretion and according to the powers of the court or Magistrate before whom such conviction may take place.

Punishment for breach of this Regulation,

CHAPTER 485

LOW-COUNTRY PRODUCTS ASSOCIATION

Ordinance No. 24 of 1947. AN ORDINANCE TO INCORPORATE THE LOW-COUNTRY PRODUCTS ASSOCIATION OF CEYLON.

[6th June, 1947.]

Short title. **1.** This Ordinance may be cited as the Low-Country Products Association of Ceylon Ordinance,

Incorporation of the association. **2.** With effect from the date on which this Ordinance comes into operation, the chairman, other office-bearers and members of the committee for the time being, and such and so many persons as now are members of the Low-Country Products Association of Ceylon (hereinafter referred to as "the association"), or shall hereafter be admitted members of the corporation hereby constituted, shall be a corporation with limited liability in manner hereinafter provided, with perpetual succession and a common seal under the style and name of "The Low-Country Products Association of Ceylon" and by that name shall sue and be sued in all courts.

General objects of the corporation **3.** The general objects for which the corporation is constituted are hereby declared to be the promotion, fostering and protection of the agricultural and commercial interests of persons interested in the products of Sri Lanka, and generally to safeguard the interests of its members.

Power to make rules- **4.** (1) It shall be lawful for the corporation, from time to time, at any general meeting of members, and by a majority of votes to make such rules as it may deem expedient in respect of all or any of the following matters :—

- (a) the admission, withdrawal or expulsion of members;
- (b) the amount of the subscriptions payable by members and the imposition of fines, forfeitures and other penalties for breaches of roles;

(c) the powers and duties of the committee and of the various officers, agents and servants of the corporation;

(ct) the procedure to be followed in the transaction of business;

(e) the administration and management of the property of the corporation ;

(f) the methods for settling any dispute that may be referred to the corporation by its members ;

(g) the management of the affairs of the corporation and the accomplishment of its objects.

(2) Any rules made under this section shall be at all times binding upon the members for the time being of the corporation.

(3) Pending the making of rules under this section, the affairs of the corporation shall be administered, as nearly as may be, in accordance with the rules of the association in force at the date of its incorporation.

5. All debts and liabilities of the association existing at the time of the coming into operation of this Ordinance shall be paid by the corporation hereby constituted, and all debts due to, and subscriptions, contributions and fines payable to, the association shall be paid to the said corporation for the purposes of this Ordinance.

Debts due by, and payable to, the association.

6. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of two members of

Procedure in affixing the seal of the corporation.

the general 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.

Corporation may hold property, movable and immovable.

7. The corporation shall be capable in law to receive and hold property, both movable or 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 any such property and to the law regulating such trusts) to sell, mortgage, lease, exchange or otherwise dispose of the same.

8. The liability of each member of the association shall be limited to the transactions of the association which shall have occurred during the period of his membership, and shall in no case exceed the sum of twenty-five rupees over and above such annual subscriptions as may be due from such member to the association; and such limitation of liability shall include any contribution that such member may be called upon to make under the rules of the association to meet any deficit in the annual expenses of the association.

Limit of liability of members.

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 the rights of the Republic and others.

CHAPTER 290

LANDS RESUMPTION

Ordinances Nos. 4 of 1887, 2 of 1934, 57 of 1942, Act No. 22 of 1955.

AN ORDINANCE RELATING TO LANDS ALIENATED BY THE CROWN WHICH ARE ABANDONED BY THE OWNERS THEREOF.

[24 th January, 1887.]

Short title.

1. This Ordinance may be cited as the Lands Resumption Ordinance.

Government Agent to publish notice calling upon owners of abandoned lands to prefer their claims.

2. (1) When any land in Sri Lanka which has been or which may hereafter be alienated by or on behalf of the State shall appear to the Government Agent to have been abandoned by the owner thereof for eight years or upwards, and such owner or any person lawfully claiming under him cannot be ascertained, notwithstanding all reasonably diligent inquiry made by such Government Agent, it shall be lawful for such Government Agent, with the sanction of the Land Commissioner, to declare by a notice to be published and to be posted on such land in the manner provided in subsection (2), that if no claim to such land is made to him by or on behalf of any person able to establish a title thereto within the period (not being less than twelve months) specified in such notice, such land shall be resumed by the State.

(2) Every notice under subsection (1) shall be published once at least—

- (a) in Sinhala, Tamil and English in the Gazette,
(b) in Sinhala in a local newspaper published in Sinhala,
(c) in Tamil in a local newspaper published in Tamil, and
(d) in English in a local newspaper published in English;

and every such notice shall also be posted in a conspicuous place in all three languages on the land to which it refers.

3. If no claim shall be made in pursuance of such notice as aforesaid, the Government Agent shall make a report to the Minister of the proceedings taken by him, which report shall contain a description of the land, together with the boundaries thereof, and shall state that no claim has been made thereto; and upon the receipt of such report, it shall be lawful for the Minister to make order that such land shall be resumed by the State ; and the same shall thereupon be resumed by and become the property of the State free from all encumbrances.

When no claim is made Government Agent to report and the Minister to make order of resumption by the State.

4. If within the period specified in such notice as aforesaid a claim shall be made, the Government Agent shall call upon the claimant to establish the same within such time as the Government Agent shall appoint, and shall inquire into such claim and record all such evidence as may be adduced before him in support thereof. The Government Agent shall thereafter make a report to the Land Commissioner of the proceedings taken by him, which report shall contain a description of the land, with the boundaries thereof, and shall set forth the nature of the claim made in respect thereof, the evidence taken in support of such claim, and the finding of the Government Agent thereon.

Procedure when claim is made.

5. If the Land Commissioner shall, upon such report as aforesaid, or after such further inquiry as he may deem expedient, be satisfied that a prima facie right to the said land has been established, all further proceedings under this Ordinance in respect of such land shall cease; but if the Land Commissioner shall entertain any doubt as to such right, the Land Commissioner shall refer the claim to the District Court of the

If the Land Commissioner be satisfied that the claim has been established, further proceedings shall cease. If claim be doubtful, reference to District Court.

district in which the land is situate, and the Judge of such court shall thereupon fix a day for the investigation of the claim with notice thereof to the claimant and to the Attorney-General, and after hearing such evidence as the claimant or Attorney-General shall adduce, or the court may call for, the said Judge shall decide whether in his opinion such right has or has not been established, and shall make such order as to costs as he shall deem just. Every such decision, however, shall be subject to an appeal, free from stamp duty, to the Court of Appeal by the Attorney-General or by such claimant, and such appeal shall be subject to the same rules which govern interlocutory appeals from District Courts.

Appeal.

Procedure on decision by District Court or Court of Appeal. Proceedings to cease or order of resumption to be made.

6. If the decision of the District Judge, or of the Court of Appeal in the event of an appeal, shall be that such right has been established, all further proceedings in respect of such land under this Ordinance shall cease; but if such decision shall be that such right has not been made out by the claimant, it shall be lawful for the Minister to make order that the land shall be resumed by the State, and the same shall thereupon be vested in and become the property of the State free from all encumbrances.

Resumption to be notified in Gazette.

Notification proof of resumption.

7. Whenever the Minister shall make an order of resumption under section 3 or section 6, a notification to that effect shall be published in the Gazette and posted on such land; and the production of the Gazette containing such notification shall be evidence of the resumption in all legal proceedings whatsoever,

District Court to issue writ of possession in favour of the State upon production of notification of resumption.

8. Upon any Government Agent producing or causing to be produced such notification of resumption before the District Court having jurisdiction within the district in which the resumed land is situate, it shall be lawful for such court, and it is hereby required, forthwith to issue a writ of possession directing the Fiscal of such Court to put and place such Government Agent or any person whom he may name in writing in possession of such land for and on behalf of the State, and, if need be, remove therefrom any person or persons refusing to vacate the same.

9. Every land resumed by the State under section 3 or section 6 shall be appraised without delay by some person or persons appointed for that purpose by the Land Commissioner, and the appraised value shall be recorded in the office of the Government Agent.

Resumed land to be appraised.

10. If within thirty years from the date of the notification of resumption being published in the Gazette any person shall establish to the satisfaction of the Minister that he is entitled to be paid such appraised value or any part thereof, the same shall be paid to him by the Deputy Secretary to the Treasury.

Appraised value payable to owner within thirty years.

11. The District Judge when investigating any claim under this Ordinance shall have the same power of adjournment and of summoning and enforcing the attendance of claimants or witnesses, and of examining them on oath or affirmation, and of enforcing answers, and of calling for and enforcing the production of documents, as he has when dealing with cases in his ordinary civil jurisdiction; and every person wilfully giving false evidence at any investigation held by a District Judge under this Ordinance shall be guilty of an offence, and may be tried and punished in the same manner as if he had given false evidence in a judicial proceeding.

Power of District Judge at investigations of claims.

False evidence

12. The Government Agent while holding an inquiry under section 4 may exercise all or any of the powers vested in a commission acting under the provisions of the Commissions of Inquiry Act; and every person who shall wilfully give false evidence before him shall be guilty of an offence, and may be tried and punished in the same manner as if he had given false evidence in a judicial proceeding.

Power of Government Agent at inquiries into claims.

13. Every claim made under this Ordinance to the Government Agent shall be in writing, and signed by the person making the same, and shall set forth the name and address of the claimant in full, and the place at which he is willing to accept the service of notices; and any notice put in the post addressed to the claimant at such place shall be deemed to have been duly served.

Form of claim under this Ordinance. Claimant to name place for service of notices.

Penalties. False statement.

14. Any person who shall wilfully and knowingly insert anything that is false in any statement of claim made to the Government Agent, and any person who, for the purpose of setting up a false claim to any land subject to the provisions of this Ordinance, shall wilfully and knowingly make any false statement (not on oath or affirmation) to the Government Agent at any inquiry held under the provisions of this Ordinance, shall be guilty of an offence, and liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for any period not exceeding six months, or to both.

rupees, or to simple or rigorous imprisonment for a term not exceeding six months, or to both.

16. No informality or irregularity occurring in any proceedings taken under this Ordinance shall be held to invalidate or affect the title of the State or any purchaser or grantee from the State to any land resumed under this Ordinance :

Defect in proceedings not to affect title of the State.

Provided, however, that nothing herein contained shall prevent any person from claiming damages against the State if he has been substantially prejudiced by any such informality or irregularity.

Resisting or obstructing officers.

15. Any person who shall offer any resistance or obstruction to any Fiscal or to any Government Agent or other person acting under the provisions of section 8, shall be guilty of an offence, and shall be liable to a fine not exceeding one hundred

17. In this Ordinance " Government Agent " means the Government Agent of the administrative district within which any land is situated.

Interpretation.

CHAPTER 297

LAND REFORM

Laws
Nos. 1 of 1972,
39 of 1975.

A LAW TO ESTABLISH A LAND REFORM COMMISSION TO FIX A CEILING ON THE EXTENT OF AGRICULTURAL LAND THAT MAY BE OWNED BY PERSONS, TO PROVIDE FOR THE VESTING OF LANDS OWNED IN EXCESS OF SUCH CEILING IN THE LAND REFORM COMMISSION AND FOR SUCH LAND TO BE HELD BY THE FORMER OWNERS ON A STATUTORY LEASE FROM THE COMMISSION, TO PRESCRIBE THE PURPOSES AND THE MANNER OF DISPOSITION BY THE COMMISSION OF AGRICULTURAL LANDS VESTED IN THE COMMISSION SO AS TO INCREASE PRODUCTIVITY AND EMPLOYMENT, TO PROVIDE FOR THE PAYMENT OF COMPENSATION TO PERSONS DEPRIVED OF THEIR LANDS UNDER THIS LAW AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[26 th August, 1972.]

Short title.

1. This Law may be cited as the Land Reform Law.

acres, so however that the total extent of any paddy land, if any, comprised in such fifty acres shall not exceed the ceiling on paddy land specified in paragraph (a).

Purposes of this Law.

2. The purposes of this Law shall be to establish a Land Reform Commission with the following objects :—

- (a) to ensure that no person shall own agricultural land in excess of the ceiling; and
- (b) to take over agricultural land owned by any person in excess of the ceiling and to utilize such land in a manner which will result in an increase in its productivity and in the employment generated from such land.

(2) Any agricultural land owned by any person in excess of the ceiling on the date of commencement of this Law shall as from that date—

- (a) be deemed to vest in the Commission; and
- (b) be deemed to be held by such person under a statutory lease from the Commission.

PART I

CEILING ON AGRICULTURAL LAND

Ceiling on agricultural land.

3. (1) On and after the date of commencement of this Law the maximum extent of agricultural land which may be owned by any person, in this Law referred to as the " ceiling ", shall—

- (a) if such land consists exclusively of paddy land, be twenty-five acres ; or
- (b) if such land does not consist exclusively of paddy land, be fifty

(3) In the computation of the acreage of agricultural land for the purpose of applying the ceiling, the following areas situated on such land shall not be taken into account:—

- (a) an area not exceeding half an acre in extent surrounding the residence of the owner of such land ;
- (b) any garden surrounding staff quarters or labour lines on such land, not in excess of one-eighth of an acre in extent for every family resident in such quarters or lines; and

(c) any area not exceeding half an acre set apart for a family burial ground.

(4) For the purpose of subsection (1)—

(a) where any land is subject to a mortgage, lease, usufruct or life interest, the mortgagor, the lessor or the person in whom the title to the land subject to the usufruct or life interest is; and

(b) where any land is held on a permit or a grant issued under the Land Development Ordinance, the permit-holder or the alienee on such grant,

shall be deemed to be the owner of such agricultural land:

Provided, however, that where the lessor of any agricultural land under paragraph (a) of this subsection is the State, the lessee of such agricultural land shall be deemed to be the owner.

4. (1) Where there is a dispute between parties as to the ownership of any agricultural land which is subject to the ceiling the Commission may, after such inquiry as it may deem fit, make an interim order declaring one of such parties to be entitled to the possession of such agricultural land. Every interim order shall be published in the Gazette and shall come into force on the date of such publication.

(2) Within two weeks of the publication of the interim order in the Gazette the Commission of its own motion or any of the parties to the dispute referred to in subsection (1) may refer such dispute to a court of competent jurisdiction for final adjudication.

(3) Till the final order is made by a court on such reference, the interim order shall be valid and effectual and shall not be called in question in any court by way of writ or otherwise. So long and for so long only as the interim order is in force the person declared by such interim order to be entitled to possess the agricultural land shall be deemed for the purpose of section 3 to be the owner of such agricultural land.

(4) As long as the interim order is in force the Commission shall not alienate the agricultural land to which the interim order relates:

Provided, however, that, where no reference has been made under subsection (2), the interim order made under subsection (1) shall have the effect of a final order under subsection (3).

5. Where after the date of commencement of this Law any person becomes the owner of agricultural land in excess of the ceiling, any such land owned by such person in excess of the ceiling shall as from that date—

(a) be deemed to vest in the Commission; and

(b) be deemed to be held by that person under a statutory lease from the Commission.

6. Where any agricultural land is vested in the Commission under this Law, such vesting shall have the effect of giving the Commission absolute title to such land as from the date of such vesting, and free from all encumbrances.

7. For the purposes of this Law, where any agricultural land is co-owned, each co-owner shall be deemed to own his share in such land as a distinct and separate entity.

8. For the purposes of this Law, where any agricultural land is owned by a private company or co-operative society, the shareholders of such company, or society, as the case may be, shall be deemed to own such land for the purposes of section 3, in proportion to the shares held by each shareholder of such company, or society, as the case may be.

9. No servitude over any agricultural land shall in any manner be affected by a change of ownership of such land under the provisions of this Law, unless and until such servitude has been determined by the Commission. Where such servitude is so determined, the owner of the servitude shall be entitled to such compensation for being deprived of the servitude as may be decided by the Commission.

Special provisions to apply where persons become owners of agricultural land in excess of the ceiling after the date of commencement.

Effect of vesting of agricultural land in the Commission under this Law.

Special provisions relating to co-owned agricultural land.

Ownership of agricultural land by body corporate.

Servitude not to be affected by change of ownership of agricultural land.

Interim order declaring possession of any agricultural land subject to the ceiling may be made by the Commission.

Rights of tenant cultivators not to be affected by change of ownership.

10. The rights of tenant cultivators under the Paddy Lands Act, No. 1 of 1958*, shall not be affected by a change of ownership of any agricultural land under the provisions of this Law.

Statutory lessee may surrender lease on giving the prescribed notice to the Commission.

11. (1) Subject to the provisions of subsection (3), any person who is a statutory lessee of any agricultural land under subsection (2) of section 3, paragraph (b) of section 5 or subsection (6) of section 13 may surrender such lease on giving the prescribed notice to the Commission.

(2) Where a statutory lease is surrendered under subsection (1) the Commission may manage or deal with the lands so surrendered in accordance with the provisions of this Law.

(3) The statutory lessee of any agricultural land shall not be entitled to surrender such lease under subsection (1) where such statutory lessee has in the declaration made under section 18 expressed a preference under paragraph (i) of subsection (2) thereof.

Agricultural lands subject to a mortgage, lease, usufruct or life interest.

12. (1) Where any agricultural land subject to a mortgage, lease, usufruct or life interest vests in the Commission under the provisions of this Law the mortgagee, lessee, usufructuary or the holder of the life interest, as the case may be, shall have a lien to the extent of his interest in such agricultural land on the compensation payable to the owner thereof and where such compensation is not sufficient to meet his claim, such mortgagee, lessee, usufructuary or such holder of the life interest shall be entitled to enforce his rights against any land subject to such mortgage, lease, usufruct or life interest in the hands of the owner of the agricultural land vested in the Commission after the ceiling of agricultural land is applied to him.

(2) Where on or after May 29, 1971, any agricultural land has been alienated by way of lease to or by any person who owns agricultural land in excess of the ceiling such lease shall from the date of commencement of this Law be deemed to have been terminated.

(3) Where a lease in respect of any agricultural land is deemed to have been terminated under subsection (2) the lessee shall be entitled to receive from the lessor as compensation for improvements made to such agricultural land during the period of the lease such amount as may be determined by the Commission.

13. (1) Where on or after May 29, 1971, any person who owned agricultural land in excess of the ceiling has alienated any agricultural land to any other person, such alienor shall, within three months of the date of commencement of this Law, report such alienation to the Commission in the prescribed form.

(2) Where the Commission finds that any alienation of agricultural land on or after May 29, 1971, has been calculated to defeat the purposes of this Law the Commission may by order made under its hand declare that such alienation is null and void. Every such order shall be sent by registered post to the alienor and alienee of the agricultural land to which that order relates.

(3) Any alienor or alienee aggrieved by an order made under subsection (2) may within three weeks of the receipt of such order appeal to the Minister in the prescribed form, and the Minister may on such appeal make such order as the Minister may deem fit in the circumstances of the case.

(4) The receipt of the order shall be deemed to be effected at the time at which the letter sent under subsection (2) would be delivered in the ordinary course of post.

(5) Where no appeal has been preferred under subsection (3) within the time allowed therefor against the order made under subsection (2), such order, or where an appeal has been preferred, the order as amended, varied or modified on appeal shall be published in the Gazette. The order so published shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

Certain transfers of agricultural land to be reported to the Commission within three months of the commencement of the Law and the Commission may invalidate such transfers.

* Repealed by the Agricultural Lands Law, No. 42 of 1973, itself repealed by the Agrarian Services Act (No. 58 of 1979).

(6) Where the Commission under the provisions of subsection (2) declares that any alienation is null and void, no right, title or interest shall be deemed to have passed to the alienee under the instrument of such alienation and such agricultural land shall vest in the Commission and the alienee shall be deemed to hold such land under a statutory lease from the Commission.

(7) Nothing contained in the preceding provisions of this section shall affect or be deemed to affect any transfer made by a fiduciary of his interest in any agricultural land to a fideicommissary in accordance with the provisions of the Abolition of Fideicommissa and Entails Act.

(5) Nothing contained in the preceding provisions of this section shall affect or deem to affect any transfer made by a fiduciary of his interest in any agricultural land to a fideicommissary in accordance with the provisions of the Abolition of Fideicommissa and Entails Act.

15. The following shall be the terms and conditions of every statutory lease of any agricultural land:—

Terms and conditions of statutory leases.

(a) The statutory lease may be terminated at any time at the option of the Commission. Unless terminated earlier such lease shall run for one year from the date of commencement of his statutory lease, and may be renewed for a further period of one year. Save and except as hereinbefore provided, no further renewals of such lease shall be given, except with the express approval of the Minister.

(b) The amount payable as lease rent per year by the statutory lessee of any agricultural land shall be—

(i) if such land is not paddy land, one-fifteenth of the compensation payable to such lessee as the former owner of such land; or

(ii) if such land is paddy land, one-tenth of the compensation payable to such lessee as the former owner of such land.

(c) The statutory lessee shall be entitled to manage the land subject to the statutory lease and to appropriate the profits thereof during the period of such lease. Such lessee shall be entitled with the written approval of the Commission to develop and improve such land and to effect repairs to buildings standing thereon. Where a lessee has with the written approval of the Commission developed or improved such land or effected such repairs to buildings he shall be entitled to receive compensation therefor in cash.

14. (1) Any person who becomes a statutory lessee of any agricultural land under this Law may within three months from such date make an application to the Commission in the prescribed form for the transfer by way of sale, gift, exchange or otherwise of the entirety or portion of such agricultural land to any child who is eighteen years of age or over or to a parent of such person.

Inter family transfer of agricultural land after the commencement of this Law.

(2) The Commission may by order made under its hand grant or refuse to grant approval for such transfer. Such order shall be made within one year of the date of application under subsection (1). Every such order shall be sent by registered post to the applicant under subsection (1). Any such applicant aggrieved by the order may appeal to the Minister within three weeks of the receipt of such order. The receipt of the order shall be deemed to be effected at the time at which letters would be delivered in the ordinary course of post.

(3) Any transfer effected in accordance with the provisions of an order made under subsection (2) or such order as amended, varied or modified on appeal shall have the effect of transferring right, title or interest in property so transferred free of the statutory lease.

(4) Any order made under subsection (2) or where an appeal has been preferred the order as amended, varied or modified on appeal shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

- (d) The lease rent due from the statutory lessee shall be deducted from any compensation payable under the provisions of this Law.
- (e) Where the statutory lessee causes any wanton damage to the land subject to a statutory lease or to any agricultural crop or building or fixtures thereon, he shall be guilty of an offence and the Commission may withhold all or any part of the compensation payable to him. The statutory lessee may, however, with the written approval of the Commission, cut down any trees standing on the land to which the lease relates.
- (f) It shall be the duty of the statutory lessee to allow the workers who are lawfully resident on the land owned by him on the day immediately prior to the date of commencement of this Law to continue so to reside on such land and to continue the employment of the workers on such land who were in regular employment on such day.
- (g) Where anyone who was not lawfully resident on the land held by the statutory lessee on the day immediately prior to the date of commencement of his statutory lease, attempts to take or takes up residence on such land, it shall be the duty of the statutory lessee to immediately report the fact in writing to the Commission and the police officer in charge of the nearest police station.
- (h) Where any statutory lessee fails to comply with the provisions of paragraph (g) he shall be guilty of an offence and the Commission may withhold any compensation payable to such statutory lessee under this Law.

16. Upon the receipt of a report under paragraph (g) of section 15 in respect of any land subject to a statutory lease, an authorized officer or agent of the Commission may give directions to any police officer in connexion with the ejectment of all such occupiers of such land referred to in the report, and such police officer shall take all such steps and may use such force as may be necessary for securing compliance with such directions.

An authorized officer or agent of the Commission may issue directions to the police for the ejectment of unlawful occupiers of a land subject to a statutory lease.

17. (1) Where an authorized officer or agent is unable or apprehends that he will be unable to eject the unlawful occupiers of any agricultural land held by the statutory lessee on the day immediately prior to the commencement of his statutory lease, he shall, on making an application in that behalf in the prescribed form to the Magistrate's Court having jurisdiction over the area in which that land is situated, be entitled to an *ex pane* order of the Court directing the Fiscal to eject such unlawful occupiers from that land.

Where an authorized officer or agent is unable or apprehends that he will be unable to eject unlawful occupiers of agricultural land subject to a statutory lease.

(2) Where an order under subsection (1) is issued to the Fiscal by the Magistrate's Court, he shall forthwith execute the order and shall in writing report to the Court the manner in which that order was executed.

(3) For the purpose of executing the order issued by the Magistrate's Court under subsection (1), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the agricultural land to which the report relates and to eject the unlawful occupiers, and their dependants, if any, therefrom.

PART II

DECLARATION IN RESPECT OF AGRICULTURAL LAND AND VESTING AND ALIENATION OF SUCH LAND

18. (1) The Commission may, by Order published in the Gazette and in such other form as it may deem desirable to give publicity to such Order, direct that every person who becomes the statutory lessee of any agricultural land shall, within a month from the date of the publication of the Order, or of becoming a statutory lessee under this Law make a declaration, in this

Declaration in respect of agricultural land subject to a statutory lease.

Law referred to as a " statutory declaration ", in the prescribed form of the total extent of the agricultural land so held by him on such lease.

(2) The declaration shall *inter alia* specify—

- (a) (i) the name of each agricultural land owned by the declarant together with such agricultural land owned by any member of the family of the declarant on the day immediately prior to the date of commencement of this Law together with the extent of such land ;
- (ii) where the declaration is in respect of an agricultural land owned by a family within the meaning of this Law the head of such family shall make the declaration and shall specify in the declaration the total extent of the agricultural land owned by such family and the extent owned by each individual member of such family;
- (b) the situation of each such land and the postal address thereof and directions for reaching such land ;
- (c) the nature of the crops grown on each such land together with the acreage under cultivation and any other particulars relating to the use of such land;
- (d) the income derived from each such land within the previous five years as declared to the Commissioner-General of Inland Revenue for the purpose of income tax immediately prior to the date of commencement of his statutory lease ;
- (e) the value of each such land as declared to the Commissioner-General of Inland Revenue for the purpose of wealth tax immediately prior to the date of commencement of his statutory lease; and

(f) the preference or preferences, if any, of the declarant as to the particular portion or portions of each such land which he should be allowed to retain.

The declaration shall be accompanied by a survey plan or sketch map depicting the boundaries of the lands declared, and of the portion or portions, if any, which the declarant has expressed a preference to retain, and shall specify all encumbrances attached to such land. Such portion or portions shall except in exceptional circumstances be contiguous areas of land which will result in minimum fragmentation of the whole land.

(3) Where any person who has made the declaration referred to in subsection (1) by operation of law becomes the owner of any agricultural land subsequent to such declaration, or ceases to be owner of any part of any land referred to in the declaration such person shall make a further declaration in respect of his land and the provisions of subsection (1) shall apply to such declaration.

(4) Any person who becomes the owner of agricultural land in excess of the ceiling on any day after the date of commencement of this Law shall, within one month of becoming such owner, make a declaration as provided for in the preceding provisions of this section.

(5) Any person who fails to make any declaration required by any of the preceding provisions of this section, or makes a declaration knowing such declaration to be false, shall be guilty of an offence and the Commission may forfeit any compensation payable to him under this Law.

19. (1) The following provisions shall apply on the receipt by the Commission of a statutory declaration made under section 18 :—

Provisions applicable on the receipt by the Commission of a statutory declaration.

(a) The Commission shall, as soon as practicable, make a determination, in this Law referred to as a " statutory determination ", specifying the portion or portions

of the agricultural land owned by the statutory lessee which he shall be allowed to retain. In making such determination the Commission shall take into consideration the preference or preferences, if any, expressed by such lessee in the declaration as to the portion or portions of such land that he may be allowed to retain.

(b) The Commission shall publish the statutory determination in the Gazette and shall also send a copy thereof to such lessee by registered letter through the post. Such determination shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(2) Before a statutory determination is made in respect of any agricultural land—

- (a) the Commission may create any class of servitude on or over such land ;
- (b) the Commission shall have the right to survey such land ; and
- (c) the statutory lessee shall be entitled to be paid such sum as the Commission may consider reasonable for fencing such land.

Effect of a statutory determination published under section 19.

20. Every statutory determination published in the Gazette under section 19 shall come into operation on the date of such publication and the Commission shall have no right, title or interest in the agricultural land specified in the statutory determination from the date of such publication.

Contents of a statutory determination published in the Gazette.

21. Every statutory determination published in the Gazette under section 19 shall *inter alia*:—

- (a) specify the extent of the agricultural land permitted by the Commission to be retained by the statutory lessee;
- (b) make reference to a survey plan made by the Surveyor-General or

under his direction of the agricultural land permitted to be retained by the lessee under paragraph (a); and

(c) specify any servitude or encumbrance attaching to such agricultural land.

22. (1) Any agricultural land vested in the Commission under this Law may be used for any of the following purposes :—

Purposes for which agricultural land vested in the Commission may be used.

- (a) alienation for agricultural development or animal husbandry by way of sale, exchange, rent purchase or lease to persons who do not own agricultural land or who own agricultural land below the ceiling;
- (b) alienation by way of sale, exchange, rent purchase or lease to a person for agricultural development or animal husbandry, or for a co-operative or collective farm;
- (c) alienation by way of sale in individual allotments to persons for the construction of residential houses;
- (d) for a farm or plantation managed by the Commission;
- (e) utilization for any public purpose ;
- (f) alienation by way of sale to persons who were minors at the time of the imposition of the ceiling on agricultural land and whose parents were dispossessed of such land in excess of the ceiling by reason of such excess land having vested in the Commission under this Law; and
- (g) alienation to any corporation established under the State Agricultural Corporations Act or to the Sri Lanka State Plantations Corporation established under the Sri Lanka State Plantations Corporation Act.

(2) Where any agricultural land has been alienated by way of sale under paragraph (i) of subsection (1), the alienee of such land may make payment for the purchase of such land by way of bonds issued to a parent of such alienee, in respect of any agricultural land vested in the Commission.

(3) In determining the persons to whom any agricultural land vested in the Commission shall be alienated, the Commission shall, as far as practicable, comply with the provision that consideration shall be given to persons from the administrative district where such land is situated.

23. Any agricultural land vested in the Commission under this Law shall not be alienated by the Commission to any of the following persons:—

- (a) persons who are not citizens of Sri Lanka; and
- (b) any employee of the Government or of any State Corporation, or of a local authority, save and except for the purpose of construction of residential houses.

24. (1) The Commission may alienate any agricultural land to any person subject to such terms and conditions as it may deem fit and as would ensure that such land is used for the purpose for which it was alienated.

(2) Where any term or condition subject to which agricultural land is alienated to any person by the Commission is not complied with, the Commission may by endorsement on a certified copy of the instrument of alienation, cancel such alienation, and thereupon such alienation shall be determined accordingly, and such agricultural land shall re-vest in the Commission. Any determination of an alienation made under this section shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

25. The extent of any agricultural land alienated by the Commission to an individual shall be such as to ensure as far as possible that the average income derived from the development of such land shall not be less than three hundred rupees per mensem.

26. (1) As soon as possible after the date of commencement of this Law, the Commission may, by notice published in the Gazette, call for applications in the prescribed form from persons for the alienation to them of any extent of agricultural land by the Commission.

(2) Any application received by the Commission under subsection (1) shall be scrutinized by the Commission and shall be disposed of on its merits by the Commission.

(3) No application received by the Commission under subsection (1) shall be entertained by the Commission from any person to whom the Commission is not entitled to alienate any agricultural land under this Law.

27. Where any agricultural land is alienated by the Commission—

- (a) by way of sale, the price at which such land is so sold shall, as far as possible, be not less than the compensation payable by the Commission to the former owner of such land under this Law; or
- (b) by way of rent purchase, the annual rent for such land shall, as far as possible, be not less than—
 - (i) one-fifteenth of the compensation payable by the Commission to the former owner of such land if such land is not paddy land ; and
 - (ii) one-tenth of the compensation so payable if such land is paddy land.

PART III

COMPENSATION

28. (1) Compensation shall be payable by the Commission in respect of any agricultural land vested in it under this Law. The compensation so payable shall be

Applications for alienation of agricultural land by the Commission

Price at which land shall be alienated by the Commission-

Category of persons to whom agricultural land shall not be alienated by the Commission.

Terms and conditions of alienation of agricultural land by the Commission.

Special provisions applicable to alienation of agricultural land by the Commission.

compensation payable by the Commission in respect of land vested in it under this Law.

computed in accordance with the following two criteria and shall be the higher amount so calculated:—

- (a) An amount not exceeding fifteen times the average annual profit on such land during the previous five years as assessed by the Commissioner-General of Inland Revenue, or where not so assessed, as declared to the Commissioner-General of Inland Revenue by the person who was the previous owner of such land on the day immediately prior to the date on which such land so vested, in this Part referred to as the "former owner", if such land is not paddy land, and ten times such average annual profit if such land is paddy land.
- (b) The value of such land as assessed by the Commissioner-General of Inland Revenue for the year of assessment ending March 31, 1971, or where not so assessed, as declared by its former owner to the Commissioner-General of Inland Revenue for the purpose of wealth tax.

(2) Where any agricultural land has not been assessed for the purpose of income tax or wealth tax the Commission may, in consultation with the Chief Valuer, make its own valuation for the purpose of subsection (1).

Notice to persons entitled to make claims to the compensation payable under this law in respect of any agricultural land vested in the Commission.

29. Where any agricultural land is vested in the Commission, the Chairman of the Commission shall, by notice published in the Gazette and in such other manner as may be determined by him, direct every person who was interested in such land immediately before the date on which such land was so vested, to make, within a period of one month reckoned from the date specified in the notice, a written claim to the whole or any part of the compensation payable under this Law in respect of such land and to specify in the claim—

- (a) his name and address ;
- (b) the nature of his interest in such land;

- (c) the particulars of his claim; and
- (d) how much of such compensation is claimed by him.

30. (1) The Chairman of the Commission or such other officer as may be authorized by him in that behalf shall, as soon as possible after the receipt of a claim for compensation in respect of any agricultural land vested in the Commission made by any person under section 29, refer to the Chief Valuer the determination of the compensation payable in respect of such land, and such Chief Valuer shall submit his determination to the Commission for decision thereon.

Determination of compensation.

(2) Where there is any dispute as to the persons entitled to compensation in respect of any agricultural land vested in the Commission, the Chairman of the Commission or such other officer as may be authorized by him in that behalf shall defer referring to the Chief Valuer the determination as to the compensation payable in respect of such land and shall refer the dispute for decision to the appropriate court of civil jurisdiction, and shall, after such court makes its decision on such dispute, refer such claims to the Chief Valuer.

(3) The Chief Valuer shall give all claimants to compensation in respect of any agricultural land vested in the Commission an opportunity to adduce before such Valuer in person or by a representative authorized by him in that behalf evidence with regard to the value of such land, and shall make a determination as to the compensation payable for such land, having regard to the provisions of this Part.

31. (1) On receipt of the determination of the Chief Valuer, the Chairman of the Commission shall subject to such modifications, if any, make an award as to the compensation payable in respect of the agricultural land which is the subject-matter of such determination, and shall give notice of such award to the person or persons entitled to such compensation.

Commission to make an award as to the amount of compensation.

(2) For the purpose of making an award, the Chairman of the Commission or such other officer as may be authorized by

him in that behalf may, if such Chairman or other officer considers it necessary so to do, hold an inquiry, and such Chairman or other officer shall, by notice in writing, direct every claimant for compensation to be present on such date, at such time and place, as may be specified in the notice.

is authorized or required to so deduct or withhold under this Law.

(2) For the purposes of this section, the expression "compensation" includes any interest which has accrued due on such compensation.

Payment of compensation.

32. (1) Where no claim to the compensation payable in respect of any agricultural land vested in the Commission is received in response to the notice under section 29 from any person, other than the former owner of such land, the Chairman of the Commission shall cause such compensation to be paid to such former owner.

35. The compensation payable in respect of any agricultural land vested in the Commission under this Law shall be considered as accruing due from the date on which that land was so vested.

When compensation accrues due.

(2) Where any claim to the compensation payable in respect of any agricultural land vested in the Commission is received in response to the notice under section 29 from any person, other than the former owner of such land, then, if every such claimant and the former owner amicably agree in writing as to the persons entitled to the compensation and the apportionment of the compensation among them, the Chairman of the Commission shall cause the compensation to be apportioned and paid to such persons according to such agreement. If there is no such agreement, the Chairman of the Commission shall cause the compensation to be paid to any appropriate court of civil jurisdiction to be drawn by the persons entitled thereto.

36. (1) Where any person is dissatisfied with the amount of compensation awarded to him under section 31 such person may appeal against the award to the Board of Review constituted under the Land Acquisition Act (hereinafter referred to as "the Board of Review") which is hereby vested with jurisdiction to entertain, hear and decide such appeal.

Persons dissatisfied with the amount of compensation awarded may appeal therefrom to the Board of Review constituted under the Land Acquisition Act.

(2) Every appeal under subsection (1) shall be in writing and be addressed to the Chairman of the Board of Review and be transmitted to, or delivered at, the office of that Board.

(3) Every appeal under subsection (1) shall—

- (a) state the name and address of the appellant;
- (b) mention as the respondent the Chairman of the Commission or other officer who made the award against which the appeal is preferred ;
- (c) contain a concise statement of the description of the agricultural land in respect of which the award was made; and
- (d) state the amount of compensation claimed by the appellant and the reasons why he considers the amount awarded by the respondent to be insufficient.

Provision for cases where compensation is not accepted, &c.

33. Where any compensation payable to any person under this Law is not accepted by him when it is tendered to him, or where such person is dead or is not in existence or is not known, it shall be paid to any appropriate court of civil jurisdiction to be drawn by the person or persons entitled thereto.

Deductions from compensation.

34. (1) Where a person is entitled to compensation in respect of any agricultural land vested in the Commission under this Law, the Commission shall deduct or withhold from the amount of such compensation such sums as the Commission

(4) No appeal under subsection (1) shall be entertained by the Board of Review unless it is preferred within twenty-one days

after the date on which notice of the compensation under section 31 of this Law was received by the appellant.

paid shall be deducted from the amount of the compensation awarded to him under section 31.

Application of certain sections of the Land Acquisition Act in relation to appeals to the Board of Review under this Law;

37. (1) The provisions of section 24 of the Land Acquisition Act shall apply to proceedings before the Board of Review on any appeal to that Board under this Law.

(2) The provisions of section 25 of the Land Acquisition Act shall apply in relation to the decision of the Board of Review on any appeal to that Board under this Law subject to the following modifications :—

- (a) subsection (4) of that section shall have effect as though the proviso thereto were omitted ; and
- (b) subsections (3) and (4) of that section shall have effect as though for the expression "section 17" occurring in those subsections, there were substituted the expression "section 31 ".

Finality of an award made under this Law.

38. An award of the Chairman of the Commission, or any other officer authorized by him in that behalf, or if instead of that award, a new award has on appeal to the Board of Review been made by that Board, such new award shall be final and conclusive and shall not be called in question in any court, whether by way of writ or otherwise.

Tender and payment of compensation.

39. Where an award is made under section 31, the Chairman of the Commission shall tender to the person who is entitled to compensation according to that award the amount of compensation allowed to him by the award or, if in lieu of that amount a new amount has been allowed as compensation by a decision of the Board of Review on an appeal by him to that Board, tender that new amount to him, and shall pay the tendered amount to him if he consents to receive it.

Power of the Chairman of the Commission to pay advances on account of compensation.

40. The Chairman of the Commission may before the determination of a claim for compensation under this Law pay to a person whom he considers entitled to such compensation an advance, and any sum so

41. The Central Bank shall issue securities under the provisions of the Monetary Law Act for the purpose of satisfying any right to compensation under this Law and the securities so issued are hereinafter referred to as " Land Reform Bonds".

Central Bank to issue securities for payment of compensation under this law.

42. Compensation payable under this Law shall be so paid in cash and Land Reform Bonds in such proportion as may be determined with the concurrence of the Minister in charge of the subject of Finance. The following provisions shall apply to the Land Reform Bonds issued under section 41 :—

Mode and manner of payment of compensation.

- (a) Such bond shall be of twenty-five years duration and shall carry interest at the rate of seven *per centum* per annum.
- (b) The holder of such bond shall be entitled to surrender them before maturity with the approval of the Minister for the following purposes:—
 - (i) agricultural, industrial or other development purposes approved by the Minister;
 - (ii) construction of residential buildings with the approval of the Minister •
 - (iii) any other purposes as may be approved by the Minister.

(c) The holder of such bonds shall be entitled to surrender them before maturity at par value for the payment of any Government dues such as for the payment of capital levy, estate duty and income tax.

[§ 2, Law 39 of 1975.]

PART IIIA

SPECIAL PROVISIONS RELATING TO ESTATE LANDS OWNED BY PUBLIC COMPANIES

Vesting of estate lands owned or possessed by public companies.
[§ 2, Law 39 of 1975.]

42A. (1) Every estate land owned or possessed by a public company on the date on which this Part of this Law comes into operation* shall, with effect from such date—

- (a) be deemed to vest in and be possessed by the Commission ; and
- (b) be deemed to be managed under a statutory trust for and on behalf of the Commission by the agency house or organization which, or the person who, on the day immediately prior to the date of such vesting, was responsible for, and in charge of, the management of such estate land, for and on behalf of such company, and such agency house, organization or person shall, subject to the provisions of this Part of this Law, be deemed to be the statutory trustee of such estate land.

(2) The vesting of an estate land under subsection (1) shall have the effect of giving the Commission absolute title to such estate land as from the date of vesting and, subject as hereinafter provided, free from all encumbrances.

(3) The terms and conditions of the statutory trust, including the remuneration or agency fees of statutory trustees shall, subject as hereafter in this Part of this Law provided, be as prescribed by regulations made under this Law.

Management of vested estate lands.
[§ 2, Law 39 of 1975.]

42B. (1) Where any estate land is vested in the Commission under section 42A, the statutory trustee of such estate land, shall, during the continuance of such statutory trust, be responsible for the good and proper management of such estate land, subject to such general or special directions as may from time to time be issued by the Commission.

(2) No such statutory trustee shall by any act or omission cause the condition of such estate land to deteriorate or the assets, movable or immovable, of such estate land to be destroyed, lost, damaged or depreciated in value.

(3) It shall be the duty of such statutory trustee to allow the workers who were lawfully resident on the estate land on the day immediately prior to the date of such vesting to continue so to reside on such estate land, and to continue the employment of the workers who were in regular employment on such estate land on such day.

(4) No credit or other financial arrangement which relates to the management, supervision or development of any such estate land or to the marketing of the produce of such land, and which is in force on the date on which this Part of this Law comes into operation* shall be modified or altered except with the written consent of the Commission, and for the purpose of securing compliance with the preceding provisions of this subsection, the Commission may from time to time issue such directions as it may deem necessary or expedient to any statutory trustee, commercial bank, public company, agency house, broker or any other party to such arrangement, and it shall be the duty of every person to whom any such direction is issued to comply therewith.

(5) (a) Subject to the provisions of paragraph (b), where any estate land is vested in the Commission, the rights and liabilities of the former owner of such estate land under any contract or agreement, express or implied, which relates to the purposes of such estate land and which subsists on the day immediately prior to the date of such vesting, and the other rights and liabilities of such owner which relate to the running of such estate land and which subsist on such day, shall become the rights and liabilities of the Commission; and the amounts required to discharge all such liabilities shall be deducted from the amount of compensation payable in respect of such estate land.

* 17th October, 1975.

(b) The Minister may at any time repudiate any liabilities referred to in paragraph (a), if he is of opinion that such liabilities were incurred *mala fide*, dishonestly or fraudulently. Notice of the repudiation shall be given by the Minister to the parties affected by such repudiation.

(c) Where the Minister under paragraph (b) repudiates any liabilities, such liabilities shall be deemed never to have become the liabilities of the Commission.

Particulars to be furnished by statutory trustees. [§ 2, Law 39 of 1975.]

42C. (1) Where any estate land is vested in the Commission under this Part of this Law, it shall be the duty of the statutory trustee of such estate land, within one month of the date of such vesting, to furnish in writing to the Commission a declaration containing the following particulars :—

- (a) the name and postal address of the estate land;
- (b) the name and address of the former owner of the estate land ;
- (c) the situation and extent of the estate land, the plantations thereon, the area covered by each such plantation and the yield of such plantation in each of the five calendar years immediately preceding the date of vesting;
- (d) a description of the buildings, factories, machinery, implements, vehicles and other things, movable and immovable, belonging to the estate land;
- (e) the balance sheet and profit and loss account of the estate land for each of the five accounting years immediately preceding the date of vesting;
- (f) copies of declarations submitted to the Commissioner-General of Inland Revenue in respect of any tax payable in respect of such estate land in each of the three accounting years immediately preceding the date of vesting;

(g) a statement of interim and final dividends declared by the former owner for each of the five accounting years immediately preceding the date of vesting;

(h) particulars of sales of other estate lands, if any, in the administrative district, of which the statutory trustee has knowledge and which have taken place during the period of three years immediately preceding the date of vesting; and

(i) such other particulars as may be prescribed; and

(2) A copy of the declaration furnished to the Commission under subsection (1) shall be sent by the statutory trustee to the former owner of such estate land who shall have the right within ninety days of the receipt by him of such copy, to address any observations on the information therein contained, to the Commission.

(3) It shall also be the duty of the statutory trustee of such estate land, to furnish to the Commission in respect of such estate land within four months of the date of vesting—

- (a) a profit and loss account in respect of the period commencing on the day following the last day of the previous accounting year and ending on the day immediately preceding the date of vesting;
- (b) the balance sheet as at the day immediately preceding the date of vesting; and
- (c) such other information as may be prescribed.

42D. (1) Where any person who was not lawfully resident on any estate land vested in the Commission attempts to take up, or takes up, residence on such estate land, it shall be the duty of the statutory trustee and of the superintendent of such estate land immediately to report the fact in writing to the Commission and to the police officer in charge of the nearest police station.

Ejectment of unlawful occupiers of vested estate lands. [§ 2, Law 39 of 1975.]

(2) Upon receipt by the Commission of a report under subsection (1), an authorized officer or agent of the Commission may give directions to any police officer in connexion with the ejection of such persons from such estate land and such police officer shall take such steps and may use such force as may be necessary for securing compliance with such directions.

(3) Where the authorized officer or agent of the Commission is unable or apprehends that he will be unable to eject such persons from such estate land, he shall, on making an application in that behalf to the Magistrate's Court having jurisdiction over the area in which the estate land is situated, be entitled to an *ex parte* order of the court directing the Fiscal to eject such persons from such estate land.

(4) Where an order under subsection (3) is issued to the Fiscal by the Magistrate's Court, he shall forthwith execute the order and shall in writing report to the court the manner in which that order was executed.

(5) For the purpose of executing the order issued by the Magistrate's Court under subsection (3), the Fiscal or any person acting under his direction may seek the assistance of any police officer and may use such force as may be necessary to enter the estate land and to eject such persons and their dependants, if any, therefrom.

Servitudes not to be affected by the vesting of estate lands. [§ 2, Law 39 of 1975.]

42E. No servitude over any estate land shall in any manner be affected by the vesting of such estate land in the Commission under the provisions of this Part of this Law, unless and until such servitude has been determined by the Commission. Where such servitude is so determined, the owner of the servitude shall be entitled to compensation.

Estate lands subject to mortgages, leases, usufruct or life interest. [§ 2, Law 39 of 1975.]

42F. Where any estate land subject to a mortgage, lease, usufruct or life interest is vested in the Commission under the provisions of this Part of this Law, the mortgagee, lessee, usufructuary or the holder of the life interest, as the case may be, shall have a lien to the extent of his interest in such estate land on the compensation payable in respect of such estate land.

42G. Any statutory trust under section 42A may be terminated at any time at the option of the Commission, and the Commission may at any time take possession of any estate land vested in the Commission. Unless terminated earlier, such trust shall continue for one year from the date of vesting, and if the Commission so decides, be continued for a further period of one year. No statutory trust may be continued for any further period by the Commission, except with the express approval of the Minister.

Termination of the statutory trust. [§ 2, Law 39 of 1975.]

42H. (1) Any estate land vested in the Commission under this Part of this Law may be used for any of the following purposes:—

Purposes for which estate lands vested in the Commission may be used. [§ 2, Law 39 of 1975.]

- (a) alienation by way of sale, exchange, rent purchase or lease to persons for agricultural development OF animal husbandry, or for a co-operative or collective farm or enterprise;
- (b) alienation by way of sale in individual allotments to persons for the construction of residential houses;
- (c) alienation to any corporation established or to be established under the State Agricultural Corporations Act or to the Sri Lanka State Plantations Corporation established under the Sri Lanka State Plantations Corporation Act;
- (d) for a farm or plantation managed by the Commission directly or by its agents;
- (e) for village expansion or any other public purpose.

(2) In determining the purposes for which estate lands vested in the Commission may be used, the Commission shall be subject to such directions as may from time to time be issued in that behalf by the Minister.

42J. (1) Compensation shall be payable in respect of every estate land vested in the Commission under this Part of this Law.

Compensation. [§ 2, Law 39 of 1975.]

(2) The amount of compensation to be paid in respect of any estate land vested in the Commission shall be such sum as in the opinion of the Chief Valuer constitutes a reasonable value of such estate land as on the date of vesting. In determining the amount of compensation, the Chief Valuer shall take into consideration, *inter alia*, the condition of the estate land as on the date of vesting, the dividends and profits declared by the owner thereof in each of the five accounting years immediately preceding the date of vesting and the prices at which estate lands in the area in which such estate land is situated were sold during the period of three years immediately preceding the date of vesting.

(3) The manner and mode of payment of compensation shall be determined by the Minister in consultation with the Minister or Ministers in charge of the subjects of Finance, Planning and Economic Affairs.

(4) The compensation payable, less any deductions that may be made from such compensation under this Part of this Law, shall carry interest, as from the date on which it accrues due until payment, at such rate as may be determined by the Minister with the concurrence of the Minister or Ministers in charge of the subjects of Finance, Planning and Economic Affairs.

(5) The provisions of sections 29 to 40 (both inclusive) shall, *mutatis mutandis*, apply in respect of estate lands vested in the Commission under this Part of this Law.

(6) Where a person is entitled to compensation in respect of any estate land vested in the Commission, the Commission shall, after reasonable notice to such person, pay from the amount of such compensation—

- (a) to the Commissioner-General of Inland Revenue, any sum certified under the hand of the Commissioner-General of Inland Revenue to the Commission to be due from such person under the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979); and

- (b) to the Commissioner of Labour, any sum certified, within a period of one year from the date of vesting of such estate land, under the hand of the Commissioner of Labour to the Commission to be due from such person as arrears of salary, provident fund contributions, gratuity or other monetary benefit to any person employed in such estate land.

For the purposes of this subsection, the expression "compensation" includes any interest which has accrued due on such compensation.

(7) Notwithstanding the provisions of subsections (1) to (5) (both inclusive) of this section, the Commission may pay to any person entitled to compensation in respect of any estate land vested in the Commission under this Part of this Law, such amount and in such manner or mode as the Minister may, in consultation with the Minister or Ministers in charge of the subjects of Finance, Planning and Economic Affairs, direct the Commission to pay, pursuant to any agreement or negotiated settlement reached between the Minister and such person in respect of the amount of compensation for such estate land and the manner and mode of payment thereof.

(8) Where compensation has been paid in respect of any estate land in accordance with the provisions of this section, no further claim against the Commission either by the person to whom such compensation was paid or by any other person shall be allowed and no action shall be instituted against the Commission in any court in respect of such further claim.

42K. Where the Minister in consultation with the Minister in charge of the subject of Trade, the Minister or Ministers in charge of the subjects of Finance, Planning and Economic Affairs, is of the opinion that it is necessary, for the purpose of giving effect to this Part of this Law, to vest in the Government, the business undertaking of any agency house or organization which, under this Part of this Law, is the statutory trustee of any estate land vested in the Commission, the Minister may request the

Vesting of the business undertakings of agency houses or organizations. [§ 2, Law 39 of 1975.]

PART IV

ESTABLISHMENT, CONSTITUTION, POWERS AND FUNCTIONS OF THE LAND REFORM COMMISSION

Minister in charge of the subject of Finance to vest such business undertaking in the Government under the provisions of the Business Undertakings (Acquisition) Act, and accordingly, the Minister in charge of the subject of Finance may by Order made under section 2 of that Act, vest such business undertaking in the Government.

Appointment and removal of directors of agency houses and organizations. [§ 2, Law 39 of 1975.]

42L. (1) Where the Minister is of the opinion that, for the good and proper management of any estate land vested in the Commission, it is necessary so to do, the Minister may by Order published in the Gazette appoint any person as a director or other executive officer or remove from office any director or other executive officer of the agency house or organization which under this Part of this Law is the statutory trustee of such estate land.

(2) An Order made under subsection (1)-

- (a) shall have effect from the date of publication of such Order in the Gazette;
- (b) shall be valid and effectual notwithstanding anything in any other law;
- (c) shall not be questioned in any court or tribunal on any ground whatsoever;

and the person in respect of whom such Order is made shall be deemed to have been appointed to or to have vacated his office, as the case may be, on the date of publication of such Order in the Gazette.

Interpretation. [§ 2, Law 39 of 1975.]

42M. In this Part of this Law, unless the context otherwise requires, "estate land" means any land of which an extent exceeding fifty acres, is under cultivation in tea, rubber, coconut or any other agricultural crop, or is used for any purpose of husbandry, and includes unsold produce of that land and all buildings, fixtures, machinery, implements, vehicles and things, movable and immovable, and all other assets belonging to the owner of such land and used for the purposes of such land.

43. (1) There shall be established a Land Reform Commission (in this Law referred to as "the Commission"), which shall consist of the persons who are for the time being members of the Commission under section 45.

Establishment of Land Reform Commission.

(2) The Commission shall by the name assigned to it by subsection (1) be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

(3) The head office of the Commission shall be in Colombo, or in such other place in Sri Lanka as may be determined by the Commission.

44. The Commission shall have such powers as may be necessary or expedient to achieve its objects and in particular it may—

Powers of the Commission.

- (a) acquire, hold, take or give on lease or hire, exchange, mortgage, pledge, sell or otherwise dispose of, any movable or immovable property;
- (b) carry out investigations, surveys and record data concerning and relating to any agricultural land and call for returns in the prescribed form concerning and relating to agricultural land;
- (c) conduct, assist and encourage research into all aspects of land tenure and reform •
- (d) make charges for any service rendered by the Commission in carrying out its business ;
- (e) establish and maintain branch offices for the purposes of the Commission;
- (f) call for and receive such documents relating to title, valuation, surveys and plans of agricultural land as may be necessary for carrying out such objects;

- (g) delegate to any member, officer or employee of the Commission or any public officer, or any employee of a State Corporation or local authority or to a District Land Reform Authority or to any Agricultural Productivity Committee established under any Law any of its powers and functions other than the power to make rules under section 57 ;
- (h) enter upon and inspect any agricultural land;
- (i) direct and decide all matters connected with the administration of its affairs;
- (j) enter into and perform, either directly or indirectly through any officer or agent of the Commission, all such contracts or agreements as may be necessary for enabling it to achieve the objects of this Law and to exercise its powers under this Law;
- (k) borrow money for the purposes of its business;
- (l) establish a provident fund and provide welfare and recreational facilities, houses, hostels and other accommodation, for persons employed by the Commission ;
- (m) do anything for the purpose of advancing the skill of persons employed by the Commission and the assistance of the provision by others of facilities for training persons required to carry out the work of the Commission.

- capacity in the administration of lands, land tenure or in surveying or law;
- (ii) one of whom shall be a public officer nominatd by name or by office by the Minister in charge of the subject of Finance;
- (iii) one of whom shall be a public officer nominated by name or by office for such appointment by the Minister to whom the subject or function of Plantation Industries is assigned by the President; and
- (iv) one of whom shall be a public officer nominated by name or by office for such appointment by the Minister to whom the subject or function of Planning has been assigned by the President; and

- (c) three ex officio members who shall be—
 - (i) the Land Commissioner;
 - (ii) the Commissioner of Agrarian Services; and
 - (iii) the Director of Agriculture.

(2) A member of the Commission appointed by the Minister under subsection (1) is in this Law referred to as an "appointed member".

(3) A person shall be disqualified from being appointed, or from continuing, as an appointed member of the Commission, if he is or becomes a Member of Parliament.

(4) Every appointed member of the Commission—

45. (1) The Commission shall consist of the following members :—

- (a) a Chairman appointed by the Minister;
- (b) five other members appointed by the Minister—
 - (i) two of whom shall have had wide experience or shown

(a) shall, unless he earlier vacates his office by death or resignation or removal, hold office for a period of three years from the date of his appointment; and

Constitution of the Commission.

(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 Commission, shall hold office for the unexpired portion of the term of office of the member whom he succeeds.

(5) All or any of the appointed members of the Commission may be paid such remuneration out of the fund of the Commission as may be determined by the Minister, with the concurrence of the Minister in charge of the subject of Finance.

(6) An appointed member of the Commission may be removed from office by the Minister without assigning any reasons, so however, that no such member who was nominated by a Minister under subsection (1) (b) (ii), (iii) and (iv) of section 45 for such appointment shall not be so removed without the prior concurrence of the Minister nominating such member.

(7) The removal of any member of the Commission under subsection (6) shall not be called in question in any court, whether by way of writ or otherwise.

(8) Any appointed member of the Commission may resign his office by letter addressed to the Minister.

(9) Where any appointed member of the Commission becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may, having regard to the provisions of subsection (1), appoint a fit and proper person to act in place of that member.

(10) If the Chairman of the Commission becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint a fit and proper person to act in place of such Chairman.

(11) The Chairman of the Commission may resign the office of such Chairman by letter addressed to the Minister.

(12) The quorum for a meeting of the Commission shall be three members of the Commission and, subject as aforesaid, the Commission may regulate its own procedure.

(13) The Commission may act notwithstanding any vacancy among its members or any defect in the appointment of any member.

46. (1) The seal of the Commission shall be in the custody of the Commission. Seal of the Commission.

(2) The seal of the Commission may be altered in such manner as may be determined by the Commission.

(3) The seal of the Commission shall not be affixed to any instrument or document except in the presence of two members of the Commission both of whom shall sign the instrument in token of their presence.

47. (1) The Minister may give such general or special directions in writing as to the performance of the duties and the exercise of the powers of the Commission, and such Commission shall give effect to such directions. Powers of the Minister in relation to the Commission.

(2) The Minister may, from time to time, direct the Commission in writing to furnish him in such form as he may require, returns, accounts and other information with respect to the property and business of the Commission and the Commission shall carry out every such direction.

(3) The Minister may order all or any of the activities of the Commission to be investigated and reported upon by such person or persons as he may specify and upon such order being made, the Commission shall afford all such facilities and furnish all such information as may be necessary to carry out such order.

48. All officers and servants of the Commission shall be deemed to be public servants within the meaning and for the purposes of the Penal Code. Officers and servants of the Commission deemed to be public servants.

Commission deemed to be a scheduled institution within the meaning of the Bribery Act.

49. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

District Land Reform Authorities.

50. (1) The Commission shall appoint a District Land Reform Authority for each administrative district consisting of such number of members as the Commission may determine.

(2) A District Land Reform Authority shall exercise, discharge or perform any such powers, functions or duties of the Commission as may be delegated to such Authority by the Commission.

(3) The members of a District Land Reform Authority may be paid such remuneration as the Minister may, in consultation with the Minister in charge of the subject of Finance, determine.

PART V

STAFF OF THE COMMISSION

Appointment of officers and servants.

51. (1) The Commission may appoint a Secretary and such other officers, servants and agents as it considers necessary for the efficient discharge of its functions.

(2) The Secretary and other officers, servants and agents of the Commission 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 Commission.

Powers of the Commission in regard to the staff of the Commission.

52. (1) The Commission may make rules in respect of all or any of the following matters:—

- (a) the appointment, promotion, dismissal and disciplinary control of the staff of the Commission ;
- (b) the fixing of wages or salaries, or other remuneration, of such staff;
- (c) the terms and conditions of service of such staff; and
- (d) the administration of the affairs of the Commission.

(2) At the request of the Commission, any officer in the public service may, with the consent of that officer and the Secretary to the Ministry charged with the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent or be permanently appointed to such staff. Where any officer in the public service is temporarily appointed to the staff of the Commission, subsection (2) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the Commission, subsection (3) of section 9 of the Motor Transport Act, No. 48 of 1957*, shall *mutatis mutandis* apply to and in relation to him.

(4) Where the Commission employs any person who has entered into a contract with the Government for a specified period, any period of service to the Commission by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

(5) At the request of the Commission, any officer or servant of the Local Government Service or of any local authority may, with the consent of that officer or servant and the Local Government Service Advisory Board or that authority, as the case may be, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent, or be permanently appointed to such staff on such terms and conditions, including those relating to pension or provident fund rights, as may be agreed upon by the Commission and the Local Government Service Advisory Board or that authority.

(6) Where any person is temporarily appointed to the staff of the Commission in pursuance of the provisions of subsection (5) he shall be subject to the same disciplinary control as any other member of such staff.

* Repealed by Law No. 19 of 1978.

PART VI

PART VII

FINANCE AND ACCOUNTS OF THE
COMMISSION

GENERAL

Capital of the Commission.

53. (1) The initial capital of the Commission shall be ten million rupees.

(2) The amount of the initial capital of the Commission shall be paid to the Commission out of the Consolidated Fund in such instalments as the Minister in charge of the subject of Finance may in consultation with the Minister determine.

(3) The capital of the Commission may be increased from time to time by a resolution of Parliament.

Fund of the Commission.

54. (1) The Commission shall have its own fund.

(2) There shall be paid into the fund of the Commission—

(a) all such amounts as may be voted from time to time by Parliament for the use of the Commission ; and

(b) all such sums of money received by the Commission in the exercise, discharge and performance of its powers and duties.

(3) There shall be paid out of the fund of the Commission all such sums of money required to defray the expenses incurred by the Commission in the exercise, discharge and performance of its functions, powers and duties under this Law or any other written law and all such sums of money as are required to be paid out of the fund by or under this Law.

Financial year of the Commission.

55. The financial year of the Commission 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.

56. The provisions of the Public Corporations (Financial Control) Act shall *mutatis mutandis* apply to the financial control and accounts of the Commission.

57. (1) The Commission may make Rules. rules in respect of all or any matters—

(a) for which rules are required or authorized by this Law to be made; and

(b) which are required by this Law to be prescribed.

(2) No rule made by the Commission shall have effect until it is approved by the Minister.

58. (1) No suit or prosecution shall lie—

(a) against the Commission for any act which in good faith is done or purported to be done by the Commission under this Law ; or

(b) against any member, officer, servant or agent of the Commission for any act which in good faith is done or purported to be done by him under this Law or on the direction of the Commission.

(2) Any expenses incurred by such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done by him under this Law or on the direction of the Commission shall, if the court holds that the act was done in good faith, be paid out of the fund of the Commission.

59. No writ against person or property shall be issued against a member of the Commission in any action brought against the Commission.

60. Any company or body of persons (whether corporate or unincorporate) may, notwithstanding anything to the contrary in any other written law or instrument relating to its functions, enter into and perform all such contracts with the Commission as may be necessary for the exercise, discharge or performance of the powers, functions or duties of the Commission.

Officers of Department of Inland Revenue may disclose any particulars to the Commission.

61. Notwithstanding anything contained in section 124 of the Inland Revenue Act, No. 4 of 1963, or section 158 of the Inland Revenue Act (No. 28 of 1979), any officer of the Department of Inland Revenue shall, at the request of the Commission, disclose to the Commission such particulars relating to the affairs of any person that may come to his knowledge in the performance of his duties under that Act as may be required by the Commission for the exercise of its powers and discharge of its functions under this Law.

Regulations.

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

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

- (a) any matter required by this Law to be prescribed;
- (b) the furnishing of returns, data and statistics relating to agricultural land;
- (c) the appointment of District and Land Reform Authorities and the terms and conditions of such appointments;
- (d) the compiling of registers of persons who do not own any agricultural land and are unemployed and who desire to—
 - (i) purchase land from the Commission in individual allotments for agricultural or animal husbandry purposes;
 - (ii) be members of groups to whom land may be alienated on a co-operative basis for agriculture or animal husbandry;
 - (iii) be workers on farms or plantations managed by the Commission • and

(iv) purchase land for the construction of residential houses.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation 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 of the regulation to be rescinded shall be published in the Gazette.

63. (1) Every person who—

Offences.

- (a) neglects or fails to comply with any provision of this Law or any regulation or order made thereunder shall be guilty of an offence under this Law;
- (b) aids or abets any person or persons in the commission of an offence under this Law shall be guilty of an offence under this Law;
- (c) attempts to commit any offence under this Law, shall be guilty of an offence under this Law.

(2) Every person who commits an offence under this Law shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding one year or to a fine not exceeding one thousand rupees or to both such imprisonment and fine.

(3) Where any offence under this Law is committed by a body corporate every individual who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all due diligence to prevent the commission of

that offence as he ought to have exercised in the circumstances having regard to the nature of the offence.

The provisions of this Law to prevail over other law, custom or usage.

64. The provisions of this Law shall have effect notwithstanding anything to the contrary in the Tea and Rubber Estates (Control of Fragmentation) Act, the Estates (Control of Transfer and Acquisition) Act, No. 2 of 1972*, or in any other law, custom or usage.

The provisions of this Law relating to ceiling not to apply to certain Government Institutions.

65. The provisions of this Law relating to the ceiling on agricultural land shall not apply to—

- (1) any State Corporation; and
- (2) any Government sponsored Co-operative Society, and the other provisions of this law shall be read and construed accordingly.

Interpretation.

66. In this Law, unless the context otherwise requires:—

" agriculture " includes—

- (i) the growing of rice, all field crops, spices and condiments, industrial crops, vegetables, fruits, flowers, pasture and fodder;
- (ii) dairy farming, livestock--rearing and breeding;
- (iii) plant and fruit nurseries ;

" agricultural land " means land used or capable of being used for agriculture within the meaning given in this Law and shall include private lands, lands alienated under the Land Development Ordinance or the State Lands Ordinance or any other enactment and includes also things attached to the earth or permanently fastened to anything attached to the earth but shall exclude—

- (a) any cultivated agricultural land owned or possessed by a public

company on May 29, 1971, so long and so long only as such land continues to be so owned or possessed by such company;

- (b) any such land which was viharagam or devalagam land on May 29, 1971, so long and so long only as such land continues to be so owned or possessed;

- (c) any such land which was owned or possessed by a religious institution on May 29, 1971, so long and so long only as such land continues to be so owned or possessed by such religious institution;

- (d) any such land which on May 29, 1971, constituted a charitable trust as defined in the Trusts Ordinance or a Muslim charitable trust or *wakf* as defined in the Muslim Mosques and Charitable Trusts or *Wakfs* Act, so long and so long only as such land continues to be so owned or possessed as such trust;

- (e) any such land held in trust on May 29, 1971, under the Buddhist Temporalities Ordinance so long and so long only as such land is held in trust under that Ordinance;

" alienation " with its grammatical variations and cognate expressions, means any transaction of whatever nature affecting land or the title thereto, and includes any conveyance, transfer, grant, surrender, exchange, lease, mortgage of land or the creation of a trust *otfidei commissum* attached to land;

" co-operative society " means a society registered under the Co-operative Societies Law;

" date of commencement of this Law " means the 26th day of August, 1972;

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

* See the List of Enactments omitted from the Revised Edition.

" paddy land " has the same meaning as in the Paddy Lands Act, No. 1 of 1958*;

" person " means—

(a) a family—

(i) consisting of the surviving spouses or spouse and any surviving child or children under the age of eighteen years; or

(ii) if there are no surviving spouses, any surviving child or children under the age of eighteen years; or

(b) any individual who is eighteen years of age or over; or

(c) any other person within the meaning of the Interpretation Ordinance not being any such family or individual;

" private company " means a private company within the meaning of the Companies Ordinance +;

" public company " means—

(i) a company registered under the Companies Ordinance! oilier than a private company; or

(ii) any company to which Part XI of the Companies Ordinance! applies;

" State 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 ;

" statutory lease ", in relation to any agricultural land, means a lease of any such land deemed to have been granted by the Commission, under this Law;

" tenant cultivator " has the same meaning as in the Paddy Lands Act, No. 1 of 1958*.

* Repealed by the Agricultural Lands Law, No. 42 of 1973, itself repealed by the Agrarian Services Act (No. 58 of 1979).

+ Repealed and replaced by the Companies Act, No. 17 of 1982.

CHAPTER 138

LAND REGISTERS (RECONSTRUCTED FOLIOS)

Ordinance AN ORDINANCE TO MAKE PROVISION FOR THE PREPARATION AND SUBSTITUTION OF
 No. 18 of 1945. RECONSTRUCTED FOLIOS FOR LOST, MUTILATED OR DAMAGED FOLIOS IN LAND
 REGISTERS.

[24th August, 1945.]

Short title. **1.** This Ordinance may be cited as the Land Registers (Reconstructed Folios) Ordinance.

letters, memoranda, books or records in the custody or under the control of the Registrar-General.

Power to prepare and insert reconstructed folios in place of lost or mutilated or damaged folios in land registers.

2. Whenever the Registrar-General after due investigation and search, is satisfied that any folio of a land register has been abstracted or destroyed or otherwise lost and cannot be recovered or that any such folio has been permanently mutilated or so obliterated or damaged as to render the entries or any material part of the entries therein indecipherable, he may insert or cause to be inserted in that register, in the place formerly occupied by the lost folio or in place of the mutilated or damaged folio, as the case may be, a reconstructed folio prepared, and authenticated by him in accordance with the provisions of this Ordinance.

(3) The material particulars, so far as they are available, of every entry which is shown by the evidence admissible under paragraph (2) to have been contained in the original folio shall be inserted in the appropriate places in the provisional folio, and no other entry shall be included on any ground whatsoever under this section.

4. The Registrar-General shall, as soon as may be after he completes the preparation of a provisional folio or as much thereof as it is possible to prepare with the evidence admissible under section 3, publish for general information, in the Gazette and in at least two of the newspapers circulating in Sri Lanka, a notice under his hand—

Notice of preparation of provisional folio.

Preparation of provisional folio.

3. In each case where a folio has to be reconstructed for the purposes of this Ordinance, the Registrar-General shall in the first instance prepare a provisional folio in accordance with the following provisions and not otherwise;—

- (a) giving such particulars as may in his opinion be necessary for facilitating the identification of the folio which is lost or is mutilated or damaged ;
- (b) stating the extent of the reconstruction he has been able to complete in the provisional folio;
- (c) specifying the period and the hours during which, and the place at which, the provisional folio may be inspected by any person or persons interested therein; and
- (d) specifying the manner in which, and the date on or before which, objections may be lodged against

- (1) The provisional folio shall as far as possible be of the same size and form as the existing folios of the land register concerned.
- (2) In ascertaining the particulars originally contained in the lost folio or in that part of a mutilated or damaged folio which is missing or is indecipherable, no evidence shall be accepted or used other than the evidence furnished by the instruments, protocols, duplicates,

LAND REGISTERS (RECONSTRUCTED FOLIOS) [Cap.138]

any entry included in the provisional folio or any of the particulars contained in any such entry, or claims may be made for the insertion of any entry or any particulars alleged to be omitted therefrom.

Objections and claims.

5. Any person whose right to or interest in any land is or is likely to be affected by any entry or any particulars in an entry included in or alleged to be omitted from any provisional folio of the preparation of which notice is given by the Registrar-General under section 4, may, in the manner and within the time specified in the notice, lodge an objection against the inclusion, or make a claim for the insertion, of such entry or particulars in that folio.

Disposal of objections and claims.

6. (1) The Registrar-General shall consider and determine every objection or claim duly lodged or made under section 5 :

Provided that any objection or claim received within fourteen days after the time limit referred to in that section may be entertained by the Registrar-General if, in his opinion, the delay was due to any unavoidable or reasonable cause.

(2) (a) Where the Registrar-General deems it necessary to hold an inquiry into any objection or claim, he shall be entitled to procure and receive all evidence relating thereto and shall, for the purposes of such inquiry, have power to require witnesses by summons under his hand to appear before him and give evidence or produce documents and power to examine such witnesses on oath or affirmation.

(b) Every person who makes default in complying with any summons issued by the Registrar-General or refuses to give evidence or to produce any document, or who gives false evidence at any inquiry held by the Registrar-General, 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 such imprisonment.

(3) The decision of the Registrar-General on each objection or claim lodged or made under section 5 shall be communicated in writing to the objector or claimant, as the case may be, and shall be final.

7. (1) Where the decision of the Registrar-General on any objection or claim lodged or made under section 5 renders necessary any alteration, insertion, omission or other amendment of any entry or the particulars in any entry included in the provisional folio, the Registrar-General shall, as soon as may be after his decision is communicated to the objector or the claimant, as the case may be, make or cause to be made each such amendment in accordance with the evidence which he has decided to accept.

Amendment, authentication and insertion of reconstructed folio.

(2) Upon the completion of all amendments required by subsection (1), or where no objection or claim has been duly lodged or made, upon the expiry of the period of fourteen days referred to in section 6 (1), the provisional folio shall be and be deemed to be the reconstructed folio for the purposes of this Ordinance.

(3) The Registrar-General shall authenticate the reconstructed folio by endorsing thereon a certificate under his hand to the effect that the folio has been prepared in accordance with the provisions of this Ordinance, and shall thereafter cause the reconstructed folio to be inserted in the appropriate land register in the place formerly occupied by the lost folio or in place of the mutilated or damaged folio, as the case may be.

8. A reconstructed folio prepared, authenticated and inserted in a land register in accordance with the provisions of this Ordinance shall for all purposes be deemed to have the same legal force and effect as the lost folio or the mutilated or damaged folio which such reconstructed folio replaces.

Legal effect of reconstructed folio.

9. (1) In this Ordinance, "land register" means the book or any volume forming part of the book kept or deemed to be kept by a Registrar of Lands for the purposes of the registration of instruments affecting land under the Registration of Documents Ordinance.

Interpretation and construction of Ordinance.

(2) This Ordinance shall be read and construed as one with the Registration of Documents Ordinance, and accordingly section 35 of that Ordinance shall apply for the purposes of the correction of any error or omission in a reconstructed folio after it is inserted in a land register in like manner as it applies in the case of any of the original folios in a land register.

(3) In this Ordinance "Registrar-General" shall include a Deputy Registrar-General. [§§ 2 & 3, Law 23 of 1978.]

CHAPTER 293

LAND SURVEYS

Ordinances
Nos. 4 of 1866,
2 of 1917.

AN ORDINANCE TO ENLARGE THE POWER OF THE SURVEYOR-GENERAL TO DEMAND THE PRODUCTION OF DEEDS AND MAKE SURVEYS OF LANDS, AND TO FACILITATE THE PROOF OF SURVEYS.

[20 th October, 1866.]

Short title.

1. This Ordinance may be cited as the Land Surveys Ordinance.

such agent, occupier, alleged owner, and person so refusing shall be guilty of an offence and be liable, on conviction thereof, to a fine not exceeding fifty rupees.

Surveyor-General, &c., may demand production of deeds.

2. It shall be lawful for the Surveyor-General, or any of his assistants, or for any person authorized in that behalf in writing by the Surveyor-General, whenever to them it shall appear necessary to do so, to demand in writing of the person claiming to be the owner of any land or premises, or of his agent, or of the occupier of any such land or premises, the production of every deed, document, or instrument upon which such person founds his claim; and if such agent, or the occupier of any such land or premises, shall refuse to give full information respecting the name and residence of the alleged owner, and of the person by whom such agent or occupier is employed, and in whose possession the said deeds, documents, and instruments are, upon being requested so to do by the Surveyor-General, or on his behalf as aforesaid, or if such alleged owner, or agent, or occupier shall refuse to produce to the Surveyor-General, or to any person on his behalf, within ten days after being requested so to do, every deed, document, and instrument upon which he founds his claim to the said land or premises, 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 Surveyor-General, or any person on his behalf 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 Surveyor-General, or on his behalf, every

3. The deeds, documents, and instruments in section 2 mentioned shall be produced on the premises to which the same may relate, or at such other place as the person demanding the same may require, and the power of demanding the production thereof, in section 2 given, shall be deemed and taken to include the power of making such examination of such deeds, documents, and instruments as shall be necessary; and every person refusing or failing to permit such examination of any such deed, document, or instrument, to any party authorized under this Ordinance to demand production thereof, and making such demand, shall be liable to a fine not exceeding fifty rupees.

Demand of production of deed to include power of examination.

4. The Surveyor-General, or any of his assistants, or any person authorized in that behalf in writing by the Surveyor-General, may, after reasonable notice given to the occupier, enter upon any land or premises which it may be necessary for him to inspect or survey, and make such inspection and survey of the same as shall be necessary to enable such Surveyor-General, assistant, or other person to ascertain whether such land or premises belongs to the State, or is the private property of the person claiming the same, or as shall be necessary for the purpose of the discharge of any official duty of the Surveyor-General or of any officer of his department. General notice, by beat of

Surveyor-General may enter into and survey lands.

tom-tom, an hour at least before the entry, that such entry will be made upon the lands in any village, or within any given limits, shall be deemed reasonable notice for the purposes of this Ordinance; but such form of notice shall not preclude the Surveyor-General or his assistants from adopting any other form.

exhibited therein; and it shall not be necessary to prove that it was in fact signed by the Surveyor-General or officer acting on his behalf, nor that it was made by his authority, nor that the same is accurate, until evidence to the contrary shall have first been given.

Penalty on abuse of power by Surveyor-General, Ac.

5. If the Surveyor-General, or any of his assistants, or any person authorized by him as aforesaid, or any person acting under his orders, shall, under pretence of performing any duty or exercising any privilege imposed on or vested in him by or under this Ordinance, abuse his power or use unnecessary violence, or wantonly do any injury, or give uncalled for and vexatious annoyance, every such officer or person shall be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

7. Any plan or survey purporting to be a true copy of one purporting to be signed as aforesaid shall, provided the said copy purport to be signed and authenticated by the Surveyor-General or officer acting on his behalf as a true copy of the original, be received in evidence in all cases and for all purposes instead of the original, and may (without proof that the original is not procurable) be taken as prima facie evidence of the truth of the facts exhibited therein as fully as that original may be under this Ordinance ; and it shall not be necessary to prove that the said copy was in fact signed or authenticated by the Surveyor-General or officer acting on his behalf, nor that it is a true copy, nor that the facts established therein are accurate, until evidence to the contrary shall have first been given.

Copies purporting to be authenticated by the Surveyor-General receivable instead of originals.

Proof of plans signed by the Surveyor-General.

6. If any plan or survey offered in evidence in any suit shall purport to be signed by the Surveyor-General or officer acting on his behalf, such plan or survey shall be received in evidence, and may be taken to be prima facie proof of the facts

CHAPTER 299

LAND SETTLEMENT

Ordinances Nos. 20 of 1931, 22 of 1932, 31 of 1933, Act No. 22 of 1955. AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO LAND SETTLEMENT.

[23rd October, 1931.]

Short title. 1. This Ordinance may be cited as the Land Settlement Ordinance.

"unoccupied land" includes land occupied by, on behalf of, or under, the State.

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

"claim" means any claim made under this Ordinance and "claimant" means any person making a claim ;

"interest ", in relation to any land, means an interest less than the full ownership of the land ;

"land " means an allotment of land the boundaries of which have been delineated by survey, or any portion of any such allotment divided, or capable of being divided, from the remainder of such allotment, and includes the bed of any waterway or collection of water, whether such waterway or collection of water is natural or artificial;

" Ordinance" includes the Ordinance referred to and any enactment amending it and any rules, regulations or by-laws made under any of such Ordinances or enactments and for the time being in force;

" person " includes any body of persons corporate or unincorporate, but does not include the State ;

" Settlement Officer" includes an Assistant Settlement Officer and a Government Agent acting under section 3 (2);

" share ", in relation to any land, means an undivided share of the land ;

" the board " means the board established by section 11;

3. (1) There may be appointed a Settlement Officer and such number of Assistant Settlement Officers as may be necessary.

(2) It shall be lawful for any Government Agent to apply the provisions of this Ordinance to any land, being of any of the descriptions set forth in section 4(1), situated within his administrative district, and for that purpose to exercise and perform the powers and duties conferred and imposed by this Ordinance upon the Settlement Officer.

(3) It shall be lawful for any Settlement Officer appointed under this Ordinance to continue or to complete any action or proceeding taken or commenced under Ordinance No. 1 of 1897" by a special officer appointed under section 28 of that Ordinance or by the Government Agent of a province or by the Assistant Government Agent of a district, where any such proceeding or action was pending or incomplete on the 23rd day of October, 1931; and for such purpose and from that date a Settlement Officer is hereby authorized to perform, execute and exercise the functions, duties and powers assigned to, imposed upon or vested in, any such special officer. Government Agent or Assistant Government Agent as the case may be.

4. (1) Whenever it appears to the Settlement Officer that any land is of any of the following descriptions:—

- (a) forest, waste, unoccupied, or uncultivated land, or chena or other land which can only be cultivated after intervals of several years; or

Appointment of Settlement Officer and Assistant Settlement Officers and powers of Government Agents to apply the Ordinance.

Settlement Officer may by notice call for claims. Publication and form of notice.

* Repealed by Ordinance No. 20 of 1931.

(b) cultivated or otherwise improved land which was, within the period of twenty-five years next preceding the date of the notice hereinafter in this subsection provided for, land of any of the descriptions specified in paragraph (a) of this subsection,

it shall be lawful for him to declare by a notice signed and dated by him and published as hereinafter provided (in this Ordinance referred to as a "settlement notice ") that, if no claim to such land or to any share of or interest in such land is made to him within a period of three months from a date to be specified in such notice the land to which or to any share of or interest in which no claim has been made as aforesaid will be declared under section 5 (1) to be the property of the State and will be dealt with on account of the State :

Provided that the date specified in such notice shall not be earlier than the date of the first publication of such notice, and that two or more lands shall not be included in one notice if such lands are respectively situated in more villages than one.

(2) Every settlement notice shall be published in the Gazette in the Sinhala, Tamil and English languages, and copies thereof shall be posted within the village in which the land is situated and on or near the land to which the notice relates and shall also be affixed to the walls of the several kachcheris and of the several courts, including the Primary Courts, of the province within which the land is situated and in such other localities as may secure the greatest possible publicity therefor, and the notice shall also be advertised by beat of tom-tom on or near the land within six weeks from the date of the publication of the notice.

(3) Whenever the extent of the land or the aggregate extent of all the lands included in a settlement notice exceeds ten acres, a notification substantially in form No. 4 in the First Schedule shall be published once at least in any two of the newspapers of Sri Lanka in the language in which each such newspaper is ordinarily published, provided that one of such newspapers shall be a newspaper published either in Sinhala or in Tamil.

(4) If the Settlement Officer has reason to think that any person has a claim to the land to which the settlement notice relates or to any share of or interest in the land, he shall, in addition to publishing the notice as hereinbefore prescribed, cause a copy thereof to be served upon such person or to be sent by post addressed to him at his last-known place of abode.

(5) Every settlement notice shall be in all material respects in form No. 1 in the First Schedule, and the Gazette in which such notice is published or an extract therefrom containing such notice and purporting to have been printed by the Government Printer or certified by some officer of the State, on behalf of the State, to be correct shall, if produced in any court in Sri Lanka be received as prima facie evidence that the requirements of this Ordinance have been duly complied with in respect of such notice.

5. (1) If no claim is made within a period of three months from the date specified in any settlement notice to any land specified therein or to any share of or interest in any such land, the Settlement Officer shall make a declaration in writing, which shall be deemed for the purposes of this Ordinance to be a settlement in favour of the State, that such land to which or to any share of or interest in which no claim has been made is the property of the State :

Powers and duties of Settlement Officer when claim is or is not made.

Provided that if at any time within the said period of three months it is brought to the knowledge of the Settlement Officer that any person has a claim to any such land or to any share of or interest in any such land and that such person is then absent from Sri Lanka and was so absent at the date of the first publication in the Gazette of the notice aforesaid, the Settlement Officer shall not make a declaration that such land is the property of the State until after the expiry of a further period of six months commencing from the day on which the said period of three months expired.

(2) If in pursuance of the settlement notice a claim is made to any land specified therein or to any share of or interest in any such land, either within the aforesaid period of three months or, in any case in which within the said period of three

months it is brought to the knowledge of the Settlement Officer that some person who is absent from Sri Lanka has a claim to any such land or to any such share or interest, within the further period prescribed by the proviso to subsection (1), the Settlement Officer shall proceed to hold an inquiry into such claim and for that purpose may with such assistants as may be required enter upon any land to which the claim relates and make such inspection as may be necessary.

(3) For the purpose of the inquiry the Settlement Officer shall call upon every claimant, by summons in writing served upon him either personally or by being left at his last-known place of abode, to appear before the Settlement Officer upon a day and at a time and place within the administrative district in which the land is situated to be specified in such summons and to produce the evidence upon which such claimant relies in proof of his claim: and if after due service of the summons such claimant, upon the day and at the place and time specified as aforesaid or upon any subsequent day to which the inquiry or any proceeding under subsection (4) has been adjourned and at the place and time to which such inquiry or proceeding has been so adjourned or upon the day and at the place and time specified in any further summons duly served upon him as provided by this subsection, does not appear or does not produce such evidence, or if he withdraws his claim, then in any of such cases his claim shall be deemed to be null and void and the Settlement Officer may thereupon deal with the land to which the claim relates as though no such claim had been made:

Provided that if any claimant who has so failed to appear or to produce such evidence as aforesaid shall thereafter, and before the publication under section 8 of the order prescribed by subsection (5), appear before the Settlement Officer and satisfy the Settlement Officer that he had reasonable grounds for such failure to appear or to produce such evidence, the Settlement Officer shall proceed to consider his claim as though he had duly appeared or

produced such evidence, and in such case it shall be lawful for the Settlement Officer for the purpose of dealing with such claim to declare any declaration made by him under subsections (1) or (4) or any agreement entered into by him under subsection (4) to be null and void ;

Provided also that it shall be lawful for the Settlement Officer in his discretion to dispense with the personal appearance of any claimant and to permit such claimant to appear or produce evidence and to be represented by an attorney-at-law or any duly authorized agent.

(4) If any claimant appears and produces such evidence as aforesaid, the Settlement Officer may, after considering such evidence and making any further inquiry that may appear proper, do any one or more of the following things :—

- (a) make a declaration in writing, which shall be deemed for the purposes of this Ordinance to be a settlement, that any land specified in the settlement notice is not claimed by the State; or
- (b) make a declaration in writing, which shall be deemed for the purposes of this Ordinance to be a settlement, that some person unascertained is entitled to a particular share of or interest in any land specified in the settlement notice; or
- (c) enter with the claimant, upon such terms and conditions as may appear fit to the Settlement Officer, into an agreement in writing signed by the Settlement Officer and by the claimant, providing for either or both of the following, namely, that the said claimant or any other person shall be declared by settlement order under subsection (5) to be entitled either wholly or in part, or that the said claimant shall withdraw his claim either wholly or in part, to any land or to any share of or interest in any land specified in the settlement notice, and make a

settlement of such land or share or interest in pursuance of such agreement:

Provided that in any case in which all claimants to, or to shares of or interests in, any land with their claims by agreement entered into under this subsection or otherwise the Settlement Officer may deal with such land as though no claim had been made thereto;

Provided also that it shall be lawful for the Settlement Officer, with the written consent of the claimant which shall not be revocable, to make a declaration in writing, which shall be deemed for the purposes of this Ordinance to be a settlement in favour of the State, that any land to which such claimant would otherwise have been declared to be entitled is State property properly set apart for the purpose of a communal chena reserve for the use of the inhabitants of such village as the Settlement Officer shall specify in such declaration.

(5) The Settlement Officer shall embody every settlement of any land specified in the settlement notice or of any share or interest in any such land, whether made by declaration under subsection (1) or (4) (a) or (b) or (c), or in pursuance of an agreement entered into under subsection (4) (c), or in pursuance of or by decree of court under section 23, in an order made by him (in this Ordinance referred to as a "settlement order"), which shall be substantially in form No- 2 in the First Schedule.

(6) No settlement, other than a settlement made in pursuance of or by decree of court, which relates to any land or to any aggregate of lands exceeding ten acres in extent shall without the consent of the Minister be embodied in any settlement order made under subsection (5); and upon publication of such settlement order under section 5 there shall be subjoined thereto substantially in form No. 3 in the First Schedule, a certificate of the consent of the Minister to such settlement; and if no such certificate is subjoined to the order as so published, the publication shall be of no effect so far as it relates to such settlement.

(7) Notwithstanding anything in this section contained, it shall be lawful for the Settlement Officer at any time prior to the publication of the settlement order to make a declaration in writing that any land specified in the settlement notice has ceased to be the subject of proceedings under this Ordinance. Every such declaration shall be published in the Gazette as an appendix to the settlement order published under section 5 and in writing to the claimant, and no settlement notice shall have any force or validity in law so far as it relates to any land in respect of which any such declaration has been so made and published.

6. (1) Before the Settlement Officer refers any claim or any portion thereof which is in dispute between himself and the claimant to the District Judge under section 12, he shall, if he thinks that in the circumstances of the case an offer should be made to the claimant by way of compromise and in order to ensure speedy settlement of such claim or portion thereof, communicate such offer in writing to the claimant and record in writing the nature of the offer and the fact that it was so made; and if the claimant accepts the offer the Settlement Officer shall enter with him, under section 5 (4) (<.), into an agreement embodying it. Offers by way of compromise.

(2) (a) It shall be lawful for the Minister to make rules defining the basis on which such offers are to be assessed and made.

(6) All rules made under this subsection 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 rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are disapproved by Parliament, such rules shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

(3) If the Settlement Officer decides that no such offer should be made, he shall record in writing the fact that no such offer has been made and shall communicate his decision to the claimant.

(4) Any claimant who is dissatisfied with the nature or amount of any offer made to him under subsection (1), or to whom no such offer has been made, may apply, within a period of one month from the day on which such offer was made to him or on which the decision of the Settlement Officer not to make an offer was communicated to him, as the case may be, to the board to revise such offer, where the claimant is dissatisfied with the nature or amount of the offer, or to make an offer, where no offer has been made. Such application shall be made by petition addressed to the board and delivered to the Settlement Officer, who shall forward the petition to the chairman of the board.

(5) The board may, after considering any such application made as aforesaid and after holding or making, or ordering to be held or made, any inquiry or inspection that it may think fit, decide to—

- (a) confirm any offer made by the Settlement Officer, or any decision of the Settlement Officer not to make an offer; or
- (b) revise any offer made by the Settlement Officer; or
- (c) make an offer where no offer has been made by the Settlement Officer; or
- (d) revise any offer made by the Settlement Officer to persons other than the applicant after due notice to them.

(6) The chairman of the board shall inform the Settlement Officer of the decision of the board in respect of every such application, and the Settlement Officer shall thereupon communicate such decision to the claimant by writing under his hand.

(7) Every claimant to whom an offer has been made by the Settlement Officer under subsection (1) or to whom the decision of the Settlement Officer not to make an offer or any decision of the board has been communicated under subsections (3) or (6) may, within a period of one month from the day on which such offer was made or such decision was communicated to him or within such longer period therefrom as the Settlement Officer may by order in writing allow, enter with the Settlement Officer into an agreement under section 5 (4) (c).

(8) No offer made by the Settlement Officer under subsection (1) in respect of any claim, or confirmed, revised, or made by the board under subsection (5), and no proceedings relating thereto, shall be considered or adjudicated upon by any court; but the court shall make order in respect of the claim as if no such offer had been made, confirmed or revised.

7. Notwithstanding anything in this Ordinance contained it shall be lawful for the Settlement Officer to enter with any claimant into any agreement under section 5 (4) (c) at any time prior to the publication of the settlement order under section 8.

Agreements under section 5 (4) (c) may be made at any time prior to publication of settlement order.

8. Subject to the provisions of section 5 (6), every settlement order shall be published in the Gazette, and every settlement order so published shall be judicially noticed and shall be conclusive proof, so far as the State or any person is thereby declared to be entitled to any land or to any share of or interest in any land, that the State or such person is entitled to such land or to such share of or interest in the land free of all encumbrances whatsoever other than those specified in such order and that subject to the encumbrances specified in such order such land or share or interest vests absolutely in the State or in such person to the exclusion of all unspecified interests of whatsoever nature and, so far as it is thereby declared that any land is not claimed by the State or that some person unascertained is entitled to a particular share of or interest in any land,

Settlement orders when published to be proof of title, &c.

that the State has no title to such land or that some person unascertained is entitled to such share of the land or that such interest in the land exists and that some person unascertained is entitled thereto, as the case may be:

Provided that nothing in this section contained shall affect the right of any person prejudiced by fraud or the wilful suppression of facts of any claimant under the notice from proceeding against such claimant either for the recovery of damages or for the recovery of the land awarded to such claimant by the order.

Registration of settlements.

9. (1) The Settlement Officer shall, before any settlement order is published under section 8, send a copy thereof to the Registrar of Lands of the registration district within which the lands in respect of which such order has been made are situated or, in any case in which such lands are situated in more registration districts than one, send a copy of the portion of such order relating to each registration district to the Registrar of Lands of that district. The Registrar of Lands shall, upon receipt thereof, enter in the books prescribed by the Registration of Documents Ordinance for the registration of instruments affecting land the particulars prescribed by that Ordinance of every settlement to which such copy relates as though such copy were an instrument affecting land presented for registration under that Ordinance, and shall note upon the copy in the proper column the reference to the volume and folio in which each such entry has been made and return the copy to the Settlement Officer; and every such settlement shall, upon the publication of the order under section 8, be deemed to have been registered under the said Ordinance on the day on which the order was so published :

Provided that it shall not be necessary for the Settlement Officer to comply with the provisions of this subsection in any case in which any settlement order or portion thereof relates to the settlement of any land or share of or interest in any land in favour of the State or of any unascertained person;

Provided, also, that for the purposes of this subsection it shall not be necessary to embody in any such order or in any schedule subjoined thereto any description of the boundaries of any land to which such order relates if such land is delineated in a plan purporting to be signed by the Surveyor-General or by some person acting on his behalf and is described in such order by reference to such plan, anything in section 13 of the Registration of Documents Ordinance, to the contrary notwithstanding.

(2) The particulars of every settlement to which the copy of any settlement order or of any portion thereof sent to the Registrar of Lands in accordance with subsection (1) relates shall be entered by the Registrar of Lands in a new folio to be allotted by him, and an instrument affecting the land so settled which is registered after the date on which such order or portion thereof was deemed to have been registered shall not be deemed to be duly registered unless it is registered in or in continuation of the new folio allotted as aforesaid.

(3) Notwithstanding anything in the Registration of Documents Ordinance, no fee shall be chargeable in respect of the registration of any settlement under this section.

10. (1) No land which has been declared under the proviso to section 5 (4) (c) to be State property set apart for the purpose of a communal chena reserve shall at any future time be used for any other purpose except by the State and with the consent of two-thirds of the persons present at a meeting of the inhabitants of the village for the benefit of which it has been set apart summoned, after such notice as he shall deem sufficient, by the Government Agent in charge of the administrative district within which such land is situated:

Lands declared under section 5 (4) (c) to be communal chena reserves not to be otherwise used without the consent of the inhabitants of the village.

Provided that it shall be lawful for the State to grant or lease portions of any such land to any persons who permanently reside in the village for the benefit of which it has been set apart and who do not own or possess an extent of land sufficient in the opinion of the Government Agent as aforesaid for their own support and for that of their families.

(2) The Government Agent in charge of the administrative district within which is situated any such land to the use of which for a purpose other than that of a communal chena reserve consent has been given as provided in subsection (1) shall give notice of such consent in the Gazette, and no such consent shall be valid or of any effect in law unless a notice in respect thereof has been published in the Gazette as provided in this subsection.

(3) In this section the term "inhabitant" shall have the same meaning as it has in the Village Councils Ordinance.

Establishment, constitution, &c., of board for considering and deciding applications under section 6 (4).

11. (1) There shall be established a board to consider and decide applications made under section 6 (4). The board shall consist of the following members to be appointed by the Minister—

- (a) an officer selected from Class I of the Sri Lanka Administrative Service; and
- (b) an attorney-at-law of the Supreme Court of Sri Lanka of not less than ten years' standing.

(2) (a) It shall be lawful for the Minister to make rules regulating or making provision for—

- (i) the form and manner of proceeding to be observed by the board in considering applications as aforesaid; and
- (ii) any other matter which may be necessary for carrying out the provisions of this Ordinance in relation to the board.

(b) All rules made under this subsection 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 rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are disapproved by Parliament, such rules shall be deemed to be rescinded as from the date

of such disapproval, but without prejudice to anything already done thereunder; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

(c) Subject to such rules the proceedings of the board shall be conducted without regard to matters of judicial form.

(3) (a) Stamp duty shall be chargeable in respect of petitions addressed to the board under section 6 (4) at the rates specified in the Second Schedule.

(b) Every claimant to land or to a share of land who makes an application to the board under section 6 (4) shall declare in his petition the aggregate extent of land or of the share of land in respect of which he considers that an offer should have been made to him under section 6 (1) in satisfaction of his claim; and stamp duty shall be chargeable in respect of such petition in accordance with the extent so declared.

(c) For the purposes of paragraph (b) of this subsection, the extent of a share of land shall be deemed to be the equivalent divided extent of land.

(d) It shall be lawful for the board, if it thinks proper to do so, to waive the stamp duty chargeable in respect of any petition or to accept, upon such terms and conditions as it thinks fit, any petition which has not been duly stamped or to order that the whole or any part of the stamp duty paid in respect of any petition be refunded.

(4) In any case in which the members of the board are unable to agree with regard to the decision of any application as aforesaid, they shall apply to the Minister to appoint a supernumerary member of the board to assist them in making such decision. Such supernumerary member shall be appointed from among the attorneys-at-law of the Supreme Court of Sri Lanka of not less than ten years' standing for the purpose of considering and deciding such application and, if after the appointment of such supernumerary member the members of the board including the supernumerary member

are unable to agree with regard to the decision of such application, the opinion of the majority shall prevail.

Reference to District Judge or Judge of Primary Court.

12. (1) If any claimant fails, within the period of one month prescribed by section 6(7) or within such longer period as the Settlement Officer may allow under that subsection, to enter with the Settlement Officer into an agreement under section 5 (4) (c), the Settlement Officer shall, if he has not made a declaration under section 5 (4) (a) that the land in respect of which or in respect of a share of or interest in which the claim is made is not claimed by the State or a declaration under section 5 (7) that such land has ceased to be the subject of proceedings under this Ordinance, refer the claim or any portion thereof which is in dispute between himself and the claimant to the District Judge of the district within which the land is situated.

(2) Notwithstanding the provisions of subsection (1), whenever the Settlement Officer and the claimant agree that any claim or portion thereof which is in dispute shall be referred to the Judge of the Primary Court of the division within which the land affected is situated, the Settlement Officer shall refer it accordingly, and thereupon the Judge of the Primary Court may exercise and perform in respect of such reference all the powers and duties vested by sections 13, 14, 15, 18, 19, 20, 21 and 22 in the District Judge; and the expression " District Judge", wheresoever in subsection (1) of this section and in sections 13, 14, 15, 18, 19, 20, 21, 22, 26 and 27 occurring, shall be deemed to include a Judge of the Primary Court to whom any such reference has been made.

Reference of two or more claims and limitation at hearing of reference to matters referred.

13. (1) It shall be lawful for the Settlement Officer in referring any claim to a District Judge under section 12 to include any other claim in the reference :

Provided that the District Judge may, if he thinks that, in any case in which two or more claims have been included in one reference by the Settlement Officer, such claims cannot conveniently be dealt with together, at any time before the decision of such claims order that any one or more of them be dealt with separately.

(2) No matters other than those included in the reference shall be adjudicated upon at the hearing of the reference nor shall any issue be framed or decided as between the State and any party not mentioned in the reference.

14. (1) Upon a reference being made to him as aforesaid, the District Judge shall cause to be served on every claimant named in such reference a notice requiring him to furnish to such District Judge on or before a date to be specified in the notice a written statement setting out the nature and extent of his claim. Every such statement of claim shall name the Settlement Officer as the party defendant on behalf of the State.

Notice to claimant to furnish statement of claim.

(2) Any two or more claimants named in any reference may embody their claims in one statement of claim.

15. (1) If no statement of claim is furnished by the claimant in pursuance of the notice served upon him under section 14(1), the District Judge shall cause to be affixed in some conspicuous place on the land specified in the reference a notice to the effect that, if the claimant does not, on or before a day to be specified in the notice, appear before the District Judge and state the particulars of his claim, he will be declared to have withdrawn his claim.

Procedure when no statement of claim furnished.

(2) If the claimant does not appear and state the particulars of his claim in pursuance of the notice, the District Judge shall declare that he has withdrawn his claim.

(3) A declaration by the District Judge under subsection (2) that any claimant has withdrawn his claim shall be equivalent to and be deemed to be a withdrawal of such claim by agreement entered into under section 5 (4) (c).

16. Subject to the provisions of section 19 (2), it shall be lawful for any party to any reference made under this Ordinance to appear by his attorney-at-law at any stage of the proceedings in respect of such reference.

Parties may appear by attorney-at-law.

17. The proceedings in respect of references made under this Ordinance shall, except as in this Ordinance otherwise provided, be regulated by the provisions of the Civil Procedure Code, so far as the said provisions are applicable.

Proceedings on reference to be regulated by procedure Code.

Reference cases to have precedence.

18. The District Judge shall give the proceedings in respect of references made under this Ordinance precedence of all other business, unless in his opinion special circumstances of urgency in any particular case otherwise require.

(2) The District Judge on receiving such petition of appeal shall transmit it, together with all the papers and the proceedings relating to the reference, to the Registrar of the Court of Appeal, and such appeal shall have precedence of all other appeals.

Procedure when statement of claim furnished.

19. (1) The District Judge shall, as soon as the statement of claim required by the notice served under section 14 (1) has been furnished, or as soon as the claimant has appeared in pursuance of the notice prescribed by section 15 (1) and stated the particulars of his claim, fix a day, of which notice shall be given to the parties, for their appearance and for the hearing of the reference; and on the day so fixed the parties shall bring their witnesses into court together with any documents upon which they intend to rely.

(3) Stamp duty shall be charged upon every such petition of appeal at the rate specified in Part II of Schedule A to the Stamp Ordinance* for similar petitions in the District Court, and upon subsequent proceedings at the rates specified in the said Schedule for appeals from the District Court.

(2) It shall be lawful for the District Judge to require the personal attendance of any claimant at any stage of the proceedings.

(4) Every such appeal shall be dealt with in the manner in which appeals from the District Court are dealt with, and upon the determination thereof the Court of Appeal shall by order either dismiss the claim or make any declaration which could have been made by the District Judge under section 20.

Procedure on hearing.

20. On the day fixed for the hearing of the reference or on any day to which the hearing is adjourned the District Judge shall proceed to examine the witnesses tendered by the parties and, upon such examination and after inspecting the documents produced by the parties and making any further inquiry that may appear necessary, shall by order either dismiss the claim or declare that the claimant is entitled as against the State to the whole or to any part, as the case may be, of the land or of the share of or interest in the land in respect of which the claim has been made and shall make such order as to costs as he may think appropriate in the case.

23. Every order made under sections 20 or 22 shall be embodied in a decree which shall for the purposes of the settlement order to be made under section 5 (5), if and in so far as by such decree the claim of any claimant is dismissed, be equivalent to and be deemed to be an agreement for the withdrawal of such claim under section 5 (4) (c) and, if and in so far as by such decree any claimant is declared to be entitled as against the State to any land or to any share of or interest in any land, be equivalent to and be deemed to be a declaration by the Settlement Officer under section 5 (4) (a) or (b) that such land is not claimed by the State or that some person unascertained is entitled to such share of or interest in such land, as the case may be.

Equation of decrees of court with settlements.

The District Judge may order a fresh survey.

21. Whenever the District Judge is of opinion that a fresh survey is necessary for the purpose of hearing any reference made under this Ordinance, he may order such survey to be made.

24. (1) Notwithstanding anything in section 8, it shall be lawful for any person, within a period of twelve months from the date of the publication under that section of any settlement order embodying the settlement of any land or of any share of or interest in any land, in any case where such land, share or interest has been declared under section 5 to be the property of the State, to make by petition, to which the Settlement Officer shall be named as respondent, presented to the District Judge

Claims before the District Judge within one year from publication of settlement order in respect of lands, &c., declared to be the property of the State.

Appeals.

22. (1) Any party to any reference who is dissatisfied with the decision of the District Judge thereon may appeal to the Court of Appeal against such decision by lodging with the District Judge within thirty days from the date of the decision a petition of appeal addressed to the Court of Appeal.

* See also the Stamp Duty Act, No. 43 of 1982.

of the district within which such land is situated a claim to, or to compensation in respect of, such land or share or interest:

Provided that no such petition shall be entertained by any District Judge—

(a) if the person presenting it has previously entered into an agreement with the Settlement Officer under section 5 (4) (c) by which he has withdrawn his claim to such land or share or interest; or

(b) if such person's claim to such land or share or interest has previously been dismissed by the District Judge under section 20 or by the Court of Appeal under section 22; or

(c) if such person fails to show good and sufficient reason for not having made his claim before the Settlement Officer either within the period prescribed by section 4(1) or, in any case in which it was within the said period brought to the knowledge of the Settlement Officer that some person who was absent from Sri Lanka had a claim to such land or share or interest, within the further period prescribed by the proviso to section 5(1).

(2) The presentation of and the proceedings in relation to every such petition shall be subject to the provisions of Chapter XXIV of the Civil Procedure Code, relating to summary procedure by petition, and if after investigation of the claim the District Judge is of opinion that it has been established, wholly or in part, he shall—

(a) if the land to which or to a share of or interest in which such claim relates has been alienated or settled on a claimant under the provisions of this Ordinance by the State or has been utilized for any public purpose, make order that the claimant shall receive from the State by way of compensation a sum representing the fair market value, as assessed by the District Judge, of such land or share or interest or, in any case in which the District Judge is of opinion that the claim has been established only in part, such smaller sum as the

District Judge considers to be proportionate to that part of the claim which has in his opinion been established; or

(b) if the land to which or to a share of or interest in which such claim relates has not been alienated by the State and has not been utilized for any public purpose, make order that the State shall transfer to the plaintiff the whole or any part, as the case may be, of such land or share or interest.

(3) Every order made under this section shall be expressed as an award, which shall be in full satisfaction of the claim and shall be a bar to any further claim against the State by any person whomsoever in respect of such land or share or interest.

25. (1) Notwithstanding the provisions of any other written law, it shall be lawful for the Settlement Officer, if, after holding such inquiry as he considers necessary, he is satisfied that any claimant or any person on whose behalf a claim is made or any person who the Settlement Officer thinks has a claim under section 4 (4) is a minor or a person of unsound mind, to appoint a fit person as curator or manager of the estate of such minor or person of unsound mind, as the case may be, for the purpose of the investigation and settlement of the claim.

Appointment of curator or manager for purposes of claim.

(2) The Settlement Officer shall, immediately upon making such appointment, send to the District Judge of the district within which the land to which or to a share of or interest in which the claim relates is situated a certificate in duplicate, which shall be signed and dated by him and shall specify—

- (a) the particulars of the claim;
- (b) the name and address of the minor or person of unsound mind by or on behalf of whom the claim is made;
- (c) the name and address of the person appointed as curator or manager;

(d) the date on which the appointment was made; and

(e) the reason for making the appointment.

(3) The District Judge shall on receipt of the certificate by order sanction the appointment, or disallow it and appoint some other person; and where the District Judge sanctions the appointment it shall be valid from the time at which it was made by the Settlement Officer.

(4) It shall not be necessary for the District Judge, before he sanctions or disallows the appointment, to require the Settlement Officer, the curator or manager appointed by the Settlement Officer, the minor or the person of unsound mind, or any other person, to appear before him.

(5) The District Judge shall endorse his order upon both duplicates of the certificate and shall file one duplicate in his court and return the other duplicate to the Settlement Officer. The Settlement Officer shall file the duplicate so returned in the record of his proceedings in respect of the claim and the appointment shall be as valid and effectual for the purpose of the investigation and settlement of the claim as though the person appointed had been granted a certificate of curatorship to the estate of the minor, or had been appointed manager of the estate of the person of unsound mind, under Chapter XL or Chapter XXXIX of the Civil Procedure Code, as the case may be.

(6) No stamp duty shall be payable in respect of such appointment, anything in the Stamp Ordinance* to the contrary notwithstanding.

Award of compensation by the Minister.

26. Nothing in this Ordinance shall be deemed to prevent the Minister, if any claim is established to his satisfaction and notwithstanding that the claimant has not made his claim within the time prescribed by this Ordinance, or has not made a statement of claim upon being noticed by the District Judge under section 14 or has not appeared and stated the particulars of

his claim in pursuance of a notice affixed on or near any land under section 15, from awarding to the claimant such compensation in land or in money or in land and money as the Minister may think proper.

27. Every person engaged in carrying out any order made by the Settlement Officer, the board, or any District Judge in pursuance of the powers or duties conferred or imposed by this Ordinance shall be deemed to be a public servant within the meaning of the Penal Code.

Persons engaged in carrying out orders of Settlement Officer, Ac., to be public servants.

28. For the purpose of holding or making any inquiry or inspection or of considering and deciding any application under this Ordinance, the Settlement Officer and the board shall have the powers conferred on a commission appointed under the provisions of the Commissions of Inquiry Act.

Settlement Officer and board to have powers of commission under the Commissions of Inquiry Act.

29. Every return made by a Fiscal to process issued under section 5 (3) shall be duly verified by the oath or affirmation of the officer employed to execute the same, and for such purpose the Fiscal is hereby authorized to administer such oath or affirmation.

Verification of service of process.

30. Any proceedings instituted or taken under this Ordinance by any person as Settlement Officer may be continued by any other person as Settlement Officer.

Proceedings under the Ordinance not invalidated by change of Settlement Officers.

31. The Settlement Officer shall not be liable in damages by reason of anything in good faith done or omitted to be done in his official capacity.

Protection of Settlement Officer.

32. (1) Any order made after the commencement of this Ordinance under section 2 or section 4 of Ordinance No. 1 of 1897+ in respect of any proceeding under that Ordinance which is pending or incompleated when this Ordinance comes into operation may, notwithstanding the provisions of any written law other than this Ordinance, be made in form No. 2 in the First Schedule to this Ordinance (amended as may be necessary), and such order shall be valid and effectual for all purposes,

Order in respect of proceedings under Waste Lands Ordinance pending at the date of commencement of this Ordinance to be made in form No. 2 in First Schedule.

* See also the Stamp Duty Act, No. 43 of 1982.

+ Repealed by Ordinance No. 20 of 1931.

notwithstanding the non-recital therein of any absence of claims, failure of any claimant to make a claim, failure of any claimant to appear or to produce any evidence or documents, withdrawal by any claimant of his claim, admission of the whole or any part of any claim or agreement.

(2) Every order made under this section shall have the same force as an order made in consequence of proceedings under this Ordinance.

FIRST SCHEDULE

Form No. 1

LAND SETTLEMENT ORDINANCE
Settlement Notice

[Section 4 (5).]

Notice is hereby given, under section 4 of the Land Settlement Ordinance, that if no claim to (the land)* (any one of the lands) f specified in the schedule hereto or to any share of or interest in (the said land)* (such land) f is made to the undersigned within a period of three months from the day o f 19 .. ., (the said land)* (such land) twill be declared under section 5 (1) of the aforesaid Ordinance to be the property of the State and will be dealt with on account of the State.

Given at _____
the Settlement Office, Colombo,
the Kachcheri,.....

this day of 19

Settlement Officer.
Assistant Settlement Officer.
Government Agent of the
..... District.

* If the notice relates to only one land.
t If the notice relates to more lands than one.

Schedule

(Here specify the land or lands in respect of which the notice is published.)

Form No. 2

LAND SETTLEMENT ORDINANCE
Settlement Order

[Sections 5 (5)
and 32.]

Whereas a settlement notice under section 4 of the Land Settlement Ordinance was duly published in the Gazette No. of 19 and as otherwise required by the said section, in respect of the land (s) situated in and described as lot (s) in Plan No. :

And whereas all claims received in pursuance of the said notice have been duly dealt with in accordance with the provisions of the said Ordinance:

[Or, And whereas no claims have been received in pursuance of the said notice:]

I, the undersigned, in pursuance of the powers conferred on me by section 5 (5) of the said Ordinance, do hereby make order that the said land (s) be settled as specified in the schedule to this order.

Given at _____
the Settlement Office, Colombo,
the Kachcheri,.....

this day of , 19..

Settlement Officer.
Assistant Settlement Officer.
Government Agent of the
..... District.

LAND SETTLEMENT

[Cap. 299

Form No. 3

THE LAND SETTLEMENT ORDINANCE

[Section 5 (6).]

Certificate

It is hereby certified that the Minister has consented to the settlement (s) embodied in the above settlement order in so far as such settlement (s), (other than settlements, if any, made in pursuance of or by decree of court), relate (s) to any land or to any aggregate of lands exceeding ten acres in extent.

Dated at Colombo, this day of..... 19

Land Commissioner.

Form No. 4

LAND SETTLEMENT ORDINANCE

[Section 4 (3).]

Settlement Notice No. calling for claims to lands in* in f Plan No. in t of the District has been published in Gazette No. of..

For further information apply to the undersigned.

Settlement Officer.
Assistant Settlement Officer.
Government Agent of the District.

- Village or area. f Description of plan. t Locality.

SECOND SCHEDULE

LAND SETTLEMENT ORDINANCE

[Section 11 (3) (a).]

Rates of Stamp Duty chargeable in respect of Petitions

1. If the claim is to the full ownership of any land or share of a land and the aggregate extent of land or of the share of land which the claimant has declared to be the extent in respect of which he considers that an offer should have been made to him in satisfaction of his claim—

Does not exceed 2 acres			Rs. c.
Exceeds 2 acres, but does not exceed 5 acres			1 0
Exceeds 5 do. 10 acres			1 50
Exceeds 10 do. 20 acres			3 50
Exceeds 20 do. 40 acres			6 0
Exceeds 40 do. 60 acres			12 0
Exceeds 60 do. 80 acres			25 0
Exceeds 80 do. 100 acres			50 0
Exceeds 100 acres			75 0
			100 0

2. If the claim is to an interest 5 0

CHAPTER 319

LOCAL TREASURY BILLS

Ordinance AN ORDINANCE TO PROVIDE FOR THE BORROWING OF MONEY BY THE ISSUE OF
 No. 8 of 1923. TREASURY BILLS IN SRI LANKA.
Act
 No. 35 of 1953.

[31st July. 1923.]

Short title. **1.** This Ordinance may be cited as the Local Treasury Bills Ordinance.

Power to borrow by the issue of Treasury Bills, &c.

2. (1) The Minister in charge of the subject of Finance whenever authorized thereto by a resolution of Parliament may direct the Deputy Secretary to the Treasury to borrow by the issue in Sri Lanka of Sri Lanka Government Treasury Bills, sums not exceeding *She sitiou*^C specified in such resolution ; and the Deputy Secretary to the Treasury may also, with the approval of the Minister in charge of the subject of Finance, borrow from time to time by the issue of such Treasury Bills, such sums as may be required to pay off at maturity, bills already lawfully issued by him and outstanding.

(2) All acts or things necessary for the purpose of, and in connexion with, the issue and repayment of Treasury Bills under this Ordinance shall be done on behalf of the Deputy Secretary to the Treasury by an officer of the Central Bank authorized in that behalf by the Monetary Board of that bank.

(3) Every Treasury Bill issued under this Ordinance shall bear the signature in facsimile of the Deputy Secretary to the Treasury.

Principal of bills.

3. The principal moneys represented by the Treasury Bills issued under the

provisions of this Ordinance are hereby charged upon and shall be payable out of the Consolidated Fund and assets of Sri Lanka.

4. The proceeds of the issue of the Treasury Bills shall be paid into the Treasury. Proceeds of bills-

5. Every Treasury Bill issued under this Ordinance shall be for the sum of one thousand rupees or a multiple of one thousand rupees and shall be payable at par at such time or times as the Minister in charge of the subject of Finance shall before the issue of such Treasury Bills fix and determine, but not later than one year from the date of issue. Amounts and period of currency of bills.

6. There shall be appropriated out of the Consolidated Fund the necessary sum to pay the principal represented by the Treasury Bills, and the Deputy Secretary to the Treasury shall pay the said principal at the Treasury in Colombo when the Treasury Bills fall due. Repayment of bills-

7. Upon repayment of the principal moneys represented by the Treasury Bills, the bills shall be delivered up to the Central Bank to be by that bank cancelled and retained on behalf of the Government of Sri Lanka. Cancellation of repaid bills.

CHAPTER 98

MORTGAGE

Ads AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO MORTGAGE.
 Nos. 6 of 1949,
 53 of 1949,
 II of 1953.

[16th January, 1950.]

PART I

SHORT TITLE AND INTERPRETATION

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

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

" appointed date " means the 16th day of January, 1950;

" hypothecary action " means an action to obtain an order declaring the mortgaged property to be bound and executable for the payment of the moneys due upon the mortgage and to enforce such payment by a judicial sale of the mortgaged property;

" land " includes things attached to the earth or permanently fastened to anything attached to the earth, and any estate, right, or interest in or over land ;

" mortgage " includes any charge on property for securing money or money's worth;

" mortgagee " includes any person from time to time deriving title under or through the original mortgagee.

Approved credit agencies. **3.** In this Act " approved credit agency " means—

- (a) any banking company as defined in section 333 of the Companies Ordinance*, which is declared by the Director of Commerce, by

Notification published in the Gazette, to be an approved credit agency for the purposes of this Act;

- (b) the State Mortgage and Investment Bank, the Loan Board, the National Savings Bank, and the Local Loans and Development Commissioners ;

- (c) any other company, firm, institution, or individual for the time being declared by the Director of Commerce, by Notification published in the Gazette, to be an approved credit agency for the purposes of this Act.

PART II

HYPOTHECARY ACTIONS ON MORTGAGES OF LAND

GENERAL

4. The provisions of this Part shall apply only to a mortgage of land, to any action to enforce payment of the moneys due upon a mortgage of land, and to any hypothecary action in respect of any land. Application of this Part.

5. (1) For the purposes of this Part— Interpretation of terms in this Part.
 "person entitled to notice ", in relation to a hypothecary action in respect of any land, means any person who—

- (a) has any interest in the land (whether by way of mortgage or otherwise), being an interest (i) to which the mortgage in suit in the hypothecary action has priority ; and (ii) which was created or arises by virtue of

* Repealed and replaced by the Companies Act, No. 17 of 1982.

an instrument duly registered under the Registration of Documents Ordinance, as an instrument affecting the land, prior to the time of the registration of the *Us pendens* of the hypothecary action, and

make a new entry in the register and cancel the registration of the previous address.

(b) has, prior to such time, registered an address for the service on him of legal documents in accordance with the provisions of section 6 of this Act,

(4) The fee for registration of an address for service or for a change of such address shall be fifty cents for each address, with an addition of ten cents for each folio after the first in which the address is to be registered.

and includes a person declared by subsection (2) of this section to be entitled to notice of the action ;

7. (1) Notwithstanding anything in section 34 of the Civil Procedure Code, a claim to enforce payment of the moneys due upon a mortgage may be joined to a claim in a hypothecary action, or a separate action may be brought in respect of each such remedy. Actions on mortgage.

"registered address" means an address registered in accordance with the provisions of section 6 of this Act.

(2) In every such action the mortgagor shall be sued as defendant whether or not he is in possession of the mortgaged land at the time when the action is instituted.

(2) Where a notice of seizure of any land is, after the registration of a mortgage of that land but before the registration of the *lis pendens* of a hypothecary action upon such mortgage, duly registered for the time being under the Registration of Documents Ordinance, the judgment creditor in the action in which such seizure was effected may register an address under section 6, and if such address is registered, shall be a person entitled to notice of the hypothecary action.

8. An order for the issue of summons in a hypothecary action shall not be made by any court unless a declaration under the hand of an attorney-at-law is filed of record— Lis pendens to be registered, &c.

Registration of address for service of documents.

6. (1) Application for the registration of an address for the service of legal documents shall be made substantially in the form set out in the First Schedule to this Act.

(a) certifying that the *lis pendens* of such action has been duly registered under the Registration of Documents Ordinance as an instrument affecting the land to which the action relates, and that such registration has been effected in or in continuation of the folio in which the mortgage bond sued upon in the action was registered ;

(2) The address for service shall be registered in or in continuation of the folio in which is registered the mortgage of the land in respect of which the applicant has an interest :

(b) certifying that the register maintained under the Registration of Documents Ordinance or a certified extract therefrom, and all relevant entries in such register, have been personally inspected by such attorney-at-law or by any other specified attorney-at-law, at or after the time if the entry in the register of the *lis pendens* of the action ; and

Provided, however, that where such mortgage includes more than one land, it shall be sufficient if the address of the applicant is registered in the folio relating to the land in which he has an interest. »

(c) containing a -statement of the name and registered address of every person, if any, found upon such inspection to be a person entitled to notice of the action.

(3) Where the applicant declares in his application that a previously registered address is cancelled, the Registrar shall

ISSUE OF NOTICE OF HYPOTHECARY
ACTION. ADDITION OF PARTIES,
INTERVENTION, &C.

Notice of
hypothecary
action.

9. (1) Notice of a hypothecary action shall, upon an order being made for the issue of summons on the defendants in the action, be issued to every person who is stated in the declaration filed under section 8 to be a person entitled to notice of such action, but who has not been joined as a defendant to the action.

(2) Where notice is not issued under subsection (1) to any person entitled to such notice, any party to the action may thereafter, but before the sale of the mortgaged land in execution of a hypothecary decree, apply to the court for the issue of notice of the action to such person, (whether or not his name was mentioned in the declaration filed under section 8), and notice shall be issued accordingly.

Manner of
issue of
notice.

10. (1) Notice of a hypothecary action may be issued to a person entitled to notice of such action in the manner provided in paragraph (a) hereunder or in the manner provided in paragraph (A) hereunder, at the option of the plaintiff:—

(a) (i) The Registrar of the court shall send to that person by registered post to his registered address a notice in the prescribed form; it shall be the duty of the Registrar to make an entry that the notice was sent in the journal of the proceedings in the action, and to file in such journal the receipt issued by the post office in respect of such notice ; and such entry and receipt shall be taken as conclusive proof, in the absence of fraud that the notice was duly sent;

(ii) A copy of such notice shall, within the period of two weeks from the date of the posting of the notice under sub-paragraph (i), be affixed in a conspicuous position upon the mortgaged land by the Fiscal under a precept from the court ;

(iii) A copy of such notice shall be published in a newspaper specified by the court ;

(b) The notice of action may be served in any manner provided by the Civil Procedure Code for the service of summons.

(2) The notice referred to in sub-paragraphs (i) and (ii) of paragraph (a) of subsection (!) shall be in both Sinhala and Tamil or in Sinhala only as the court may direct.

11. (1) Where the plaintiff in a hypothecary action joins as a defendant any person entitled to notice of the action, the provisions of section 10 shall apply in relation to the service on such person of the summons in the action in like manner as they apply in relation to the issue of notice of the action.

Manner of
issue of
process. &c.,
where person
entitled to
notice is a
party to the
action.

(2) Where any person entitled to notice of a hypothecary action is added as a party to the action, the provisions of section 10 shall apply in relation to the service on such person of any notice, process, order, decree or other document or written communication, in like manner as they apply in relation to the issue of notice of the action.

12. Where notice of a hypothecary action is issued to any person under section 9 and in the manner provided' by section 10 ^{Rights of person to whom notice is issued}

a) such person shall be entitled at his option to be added as a party to the action upon application made to the court in that behalf within one month of the date of the posting of the notice to him under section 10 (1) (a) or of the publication of a copy thereof under that section, whichever is the later, or where the notice is served in like manner as a summons, within one month of the date of such service ;

(b) such person may, in the discretion of the court upon such terms as the court thinks just, be added as a party to the action upon application

made after the expiry of the period of one month referred to in paragraph (a) but before the sale of the land under the hypothecary decree :

Provided, however, that every finding, order, decree or thing done in the action prior to the date of the application under paragraph (b) shall, unless the court in its discretion otherwise orders, bind the person so added in like manner as though he had previously been a party to the action.

Right of person entitled to notice to be added as a party before sale.

13. Any person entitled to notice of a hypothecary action to whom such notice has not been issued under section 9 and in the manner provided by section 10 shall be entitled, on application made by him to the court at any time before the sale of the mortgaged land in execution of a hypothecary decree, to be added as a party to the action.

Rights of person added during pendency of action.

14. Where any person, to whom notice of a hypothecary action has been issued under subsection (2) of section 9 and in the manner provided by section 10, is added as a party to the action under paragraph (a) of section 12, or any person entitled to notice of a hypothecary action is added as a party under section 13—

- (a) no finding, order, decree or proceeding previously made or taken in the action shall bind him except in so far as he may consent to be bound thereby ;
- (b) such person shall be entitled to raise any question or issue which he could have raised if he had originally been a party to the action, and any other party may raise any question or issue arising in consequence ;
- (c) a fresh trial shall be had on every issue previously raised in the action, unless such person consents to be bound by the previous finding thereon;
- (d) upon the trial of any issue whether* previously raised or not, no part of the evidence previously taken shall be evidence upon that issue, except in so far as all the parties to the action agree to be bound by such evidence ;

(e) if a decree had been entered in the action prior to the addition of such person as a party thereto, the court shall, if such person so requires, make order suspending the operation of such decree, and shall, after the trial of all the issues as hereinbefore provided, confirm the judgment previously given and the decree entered thereon or annul such judgment and decree and give a new judgment and enter a new decree, as the circumstances of the case may require.

15. Every party to a hypothecary action, and every person entitled to notice of the action and to whom notice of the action is issued under section 9 and in the manner provided by section 10, and every person who is added as a party under section 12 or section 13, shall be bound by the decree and sale in the hypothecary action.

Persons noticed or added to be bound by decree and sale.

16. Every person having any interest in the mortgaged land by virtue of an instrument to which the mortgage in suit has priority, but who is not a person entitled to notice of the action as hereinbefore defined, shall be bound by every order, decree or sale or thing done in the hypothecary action:

Intervention by person interested who is not entitled to notice.

Provided, however, that any such person may at any time before the entry of the decree in the action be added as a party on application made by him in that behalf upon such terms as the court may impose, but any person so added shall be bound by every finding or order previously made in the action and by the proceedings previously taken therein except in so far as the court may in its discretion otherwise order.

-17. In sections 18 to 23," party omitted from a hypothecary action " means a person entitled to notice of the hypothecary action but who is not declared by section 15 to be bound by the decree and sale in that action.

Meaning of party omitted".

Party omitted may intervene after sale and dispute the amount of decree or claim balance proceeds.

18. (1) A party omitted from a hypothecary action may at his option intervene in the action after the sale of the mortgaged land in execution of a hypothecary decree, but before the distribution of the proceeds of the sale, for the purpose of raising an issue as to the sum due under the mortgage in suit in the hypothecary action, and the court shall, if it finds after inquiry and hearing such evidence as may be adduced upon such issue, that the sum actually due is less than the sum stated in the decree to be due under the mortgage, amend the decree in so far as it relates to the sum found to be due under the mortgage.

(2) The raising of any issue or the amendment of any decree under subsection (1) shall not in any way affect the validity of the sale in execution of the hypothecary decree.

(3) A party omitted from a hypothecary action who intervenes in that action under subsection (1) shall, whether or not he makes a claim under section 57 to participate in the balance proceeds of sale of the mortgaged land, be bound by the sale in that action and by the decree (whether or not it is amended under that subsection) in like manner as though he had been a party to the action.

(4) Where a party omitted from a hypothecary action makes a claim under section 57 to participate in the balance of the proceeds of sale of the mortgaged land, then, notwithstanding that he may not have intervened in the action under subsection (1) of this section, he shall be bound by the decree and sale in the action in like manner as though he had been a party thereto.

Action by or against party omitted for settlement of rights. &c.

19. (1) Where a party omitted from a hypothecary action is not a person who is by subsection (3) or subsection (4) of section 18 declared to be bound by the decree and sale in that action, and a conveyance of the mortgaged land has been executed in favour of the person who had purchased that land at the sale (hereinafter referred to as " the prior sale ") in execution of the hypothecary decree in that action—

- (a) the party omitted may institute an action, to which the mortgagor and the purchaser at the prior sale shall be added as parties, for the purpose of obtaining a decree declaring him

to be entitled to the land or to any interest therein, or where such party omitted is a mortgagee, for the purpose of obtaining a hypothecary decree in respect of the land ;

- (b) the purchaser of the land at the prior sale may institute an action to which the mortgagor and the party omitted shall, be added as parties, for the settlement of the rights and liabilities of the purchaser, the mortgagor and the party omitted.

(2) In this section and in sections 20 to 23, " purchaser at the prior sale " includes any person deriving title under or from the person who purchased the land at the prior sale.

(3) The court may, if it thinks fit so to do having regard to the circumstances of any case, permit the party omitted to institute an action under subsection (1), notwithstanding that a conveyance of the mortgaged land may not have been executed in favour of the purchaser of the land.

20. In any action instituted under section 19, the party omitted from the hypothecary action may raise any issue as to the moneys due under any mortgage, which had priority over the interest of the party omitted and which was wholly or partly paid off out of the proceeds of the prior sale. Where such issue is raised, the mortgagee under that mortgage shall be added as a party to the action instituted under section 19 and the court shall determine afresh the sum actually due thereunder.

Issue may be raised as to amount properly due under mortgages paid off out of proceeds of prior sale.

21. (1) Where the court, in any action instituted under section 19, finds that any moneys are due from the mortgagor to the party omitted by virtue of the instrument under which he claims, the court shall enter a decree ordering that the land sold at the prior sale shall be resold, unless the purchaser at the prior sale pays to the party omitted, before a date specified in the decree, the moneys so found to be due to the party omitted from the mortgagor.

Procedure where court finds that moneys are due to party omitted from mortgagor.

(2) Upon the resale of the mortgaged land under the decree entered under subsection (1), the proceeds of resale shall be distributed as follows;—

- (i) firstly, the purchaser at the prior sale shall be entitled to payment of the amount at which he purchased the

land at the prior sale, or of the total amount of the moneys paid off out of such purchase money to every mortgagee under a mortgage which had priority over the interest of the party omitted, whichever amount is the less:

Provided, however, that where the court has under section 20 determined the amount of the moneys due under any such mortgage, and the amount so determined is less than the moneys actually paid off thereon in the prior action, the amount so determined shall be taken, for the purposes of the preceding provisions of this paragraph, to be the moneys due under that mortgage ;

- (ii) secondly, after payment of any amount to which the purchaser is entitled under paragraph (i), the party omitted shall be entitled to payment of the amount found under subsection (1) to be due to him from the mortgagor;
- (iii) thirdly, the purchaser at the prior sale shall be entitled to any balance remaining after the payments referred to in sub-paragraphs (i) and (ii), have been made.

(3) Where any moneys are paid to the party omitted by the purchaser at the prior sale in compliance with the decree under subsection (1) or any moneys are paid to the party omitted under paragraph (ii) of subsection (2), the following provisions shall apply :—

- (a) If the mortgage was created before the appointed date, the purchaser of the land at the prior sale shall be entitled, in the action instituted under section 19, to an order directing the mortgagor to pay to such purchaser an amount equal to the amount so paid to the party omitted ;
- (b) If the mortgage was created after the appointed date, then, if, but only if, any amount had in the prior hypothecary action been paid*to the mortgagor out of the proceeds of sale of the mortgaged land at the prior sale, the purchaser at such prior sale shall be entitled, in the action instituted under section 19, to an order directing the mortgagor to pay

to such purchaser an amount equal to the moneys actually so paid to the party omitted under this section or to the moneys paid to the mortgagor out of the proceeds of the prior sale, whichever amount is the less. •

(4) Any order made under subsection (3) may be enforced in the same manner as an order or decree for the payment of money in an ordinary action.

22. (1) Where the court is satisfied that the instrument, under which the party omitted from the hypothecary action claims an interest in the land, transferred to him the title of the mortgagor to the land, but that such title was subject to the mortgage in suit in the prior hypothecary action, the court shall enter decree declaring the party omitted to be entitled to the land subject to the right of the purchaser at the prior sale to a hypothecary charge to the extent of the amount at which he purchased the land at the prior sale or of the total amount of the moneys paid off out of such purchase money to every mortgagee under a mortgage which had priority over the interest of the party omitted, whichever amount is less, and ordering that in default of the payment of such amount to the purchaser by the party omitted the land shall be sold against the party omitted for the recovery of such amount:

Provisions applicable where part omitted is a transferee

Provided, however, that where the court has under section 20 determined the amount of the moneys due under any such mortgage, and the amount so determined is less than the sum actually paid off thereon out of the proceeds of the prior sale, the amount so determined shall be taken, for the purposes of the preceding provisions of this subsection, to be the moneys due under that mortgage.

(2) In any case to which subsection (1) of this section applies the court shall, if satisfied that any moneys were paid to the mortgagor out of the proceeds of the prior sale, make order directing the mortgagor to pay to the purchaser at the prior sale an amount equal to the moneys so paid to the mortgagor out of those proceeds, and such order may be enforced in the same manner as an order or decree for the payment of money in an ordinary action.

Order against prior mortgagee if over-payment was made from proceeds of prior sale.

23. (1) In any case where, by reason that the amount of the moneys determined by the court under section 20 to be due on any mortgage is less than the amount of the moneys actually paid off on that mortgage out of the proceeds of the prior sale, there has been an over-payment to the mortgagee under that mortgage (hereinafter referred to in this section as "the prior mortgagee"), the following provisions shall apply :—

- (a) If no moneys are paid to the party omitted under section 21 (1) in compliance with the decree entered thereunder or under paragraph (ii) of section 21 (2) out of the proceeds of the resale, the party omitted shall be entitled, in the action instituted under section 19, to an order directing the prior mortgagee to pay to him the amount found under section 21 (1) to be due to him from the mortgagor or the amount of such over-payment, whichever amount is less;
- (b) If any moneys are paid to the party omitted under section 21 (1) in compliance with the decree entered thereunder or under paragraph (ii) of section 21 (2) out of the proceeds of the resale—
 - (i) the purchaser at the prior sale shall be entitled, in the action instituted under section 19, to an order directing the prior mortgagee to pay to such purchaser the amount of the moneys so paid to the party omitted or the amount of such over-payment, whichever amount is less;
 - (ii) if the moneys so paid to the party omitted are less than the amount found under section 21 (1) to be due to him from the mortgagor, the party omitted shall be entitled, in the action instituted under section 19, to an order directing the prior mortgagee to pay to him the amount of the deficiency :

Provided, however, that no order shall be made under this sub-paragraph against the prior mortgagee unless, and except to the extent to which, the amount of the over-payment exceeds the amount specified in the order made against the prior mortgagee under sub-paragraph (i) of this paragraph ;

- (c) if the party omitted is a transferee, and the provisions of section 22 are accordingly applicable, the purchaser at the prior sale shall, in the action instituted under section 19, be entitled to an order directing the prior mortgagee to pay to him the amount of such over-payment.
- (2) Any order made under subsection (1) may be enforced in the same manner as an order or decree for the payment of money in an ordinary action.

EFFECT OF SALE IN EXECUTION OF DECREE UPON PUISNE MORTGAGE

24. In section 25—

" prior mortgage ", in relation to any other mortgage of the same land, means a mortgage which has priority over such other mortgage; and " prior mortgagee " has a corresponding meaning;

Meaning of " prior mortgage ", " puisne mortgage ", &c.

" puisne mortgage ", in relation to any other mortgage of the same land, means a mortgage over which such other mortgage has priority; and " puisne mortgagee " has a corresponding meaning.

25. Where any mortgaged land is sold in execution of a decree in a hypothecary action upon a puisne mortgage, and the conveyance of the mortgaged land is executed in favour of the purchaser at such sale (hereinafter in this section referred to as " the purchaser under the puisne mortgage "), the following provisions shall apply :—

Effect of conveyance upon sale under puisne mortgage.

- (a) The puisne mortgagee, and every person who being entitled to notice of the action upon the puisne mortgage is by virtue of any of the

preceding provisions of this Part bound by the decree and sale in that action, shall not be entitled to notice of any hypothecary action instituted subsequent to the date of such conveyance on any prior mortgage of that land, but shall be bound by the decree and sale in the latter action;

- (b) The purchaser under the puisne mortgage shall, if the mortgaged land is subsequently sold in execution of the decree in any hypothecary action upon a prior mortgage, be entitled upon making a claim in that behalf under section 57, to the entirety of the balance of the proceeds of the sale of the land remaining after satisfaction of the moneys found to be due in that action to the prior mortgagee and of the claim, if any, of any other person preferred by virtue of any other instrument having priority to the puisne mortgage;
- (c) If the purchaser under the puisne mortgage is a person entitled to notice of a subsequent hypothecary action upon a prior mortgage of the land but is a party omitted from the latter action, and if an action is instituted under section 19, then, for the purposes of the application of the provisions of subsection (1) of section 22, no mortgage shall be deemed to have priority over the interest of such party omitted unless it had priority over the puisne mortgage in suit in the action in which the land was sold to such purchaser;
- (d) if the conveyance to the purchaser under the puisne mortgage was executed after the date of the registration of the *lis pendens* of a hypothecary action upon a prior mortgage of the land, and if the puisne mortgagee under the mortgage in suit in the action in which such purchaser purchased the mortgaged land is a party omitted from the subsequent hypothecary action, then such purchaser, unless he is added as a party to the latter action under section 16 or makes a claim under section 57 in, the latter

action, shall be deemed to be a party omitted from the latter action and the provisions of paragraph (c) of this section shall be applicable;

- (e) Except in the cases referred to in paragraphs (c) and (d) of this section, the purchaser under the puisne mortgage shall, whether or not he is a party to any hypothecary action upon any prior mortgage of the mortgaged land, be bound by the decree and sale in the latter action.

DEATH. INSOLVENCY OR DISABILITY OF MORTGAGOR OR PERSON ENTITLED TO NOTICE

26. (1) Where any mortgagor dies before the institution of a hypothecary action in respect of the mortgaged land, or any mortgagor or any person who is or becomes a party to a hypothecary action dies after the institution of the action, and grant of probate of the will or issue of letters of administration to the estate of the deceased has not been made, the court in which the action is to be or has been instituted may in its discretion, after the service of notice on such persons, if any, and after such inquiry as the court may consider necessary, make order appointing a person to represent the estate of the deceased for the purpose of the hypothecary action, and such person may be made or added as a party to the action :

Appointment of representative of deceased mortgagor or of deceased party to hypothecary action.

Provided, however, that such order may be made only if—

- (a) the value of the mortgaged property [§4,24 of 1969,] does not exceed twenty thousand rupees; or
- (b) a period of six months has elapsed after the date of the death of the deceased ; or
- (c) the court is satisfied that delay in the institution of the action would render the action not maintainable by reason of the provisions of the Prescription Ordinance.

(2) In making any appointment under subsection (1) the court shall appoint as representative a person who after summary inquiry appears to the court to be the person to whom probate of the will or letters of administration to the estate of the deceased would ordinarily be issued ;

Provided, however, that in the event of a dispute between persons claiming to be entitled to be so appointed, the court shall make such an appointment (whether of one of those persons or of any other person) as would in the opinion of the court be in the interests of the estate of the deceased.

Effect of representative being made a party.

27. Where any appointment is made under section 26 and the person so appointed is a party to the action, every order, decree and sale or thing done in the hypothecary action (including the seizure and sale in execution of the property of the deceased mortgagor not included in the mortgage in suit) shall have the like effect as though the executor or administrator of the deceased were a party to the action.

Provision for death, insolvency, unsoundness of mind or minority of party entitled to notice and for registration of addresses and issue of notice in such cases.

28. (1) The duly appointed executor of the will or the administrator of the estate of a deceased person, or the duly appointed assignee of the estate of an insolvent, or the duly appointed curator or manager of the estate of a minor or person of unsound mind, may, whether or not such deceased person, insolvent, minor or person of unsound mind has himself registered his address under section 6, register an address under that section on behalf of such estate.

(2) Where the registration of the address of the executor or administrator or of the assignee, curator or manager, as the case may be, is not effected as provided in subsection (1), any other person interested may register an address under section 6 on behalf of the estate of the deceased person or of the insolvent, minor or person of unsound mind. The address so registered shall be cancelled forthwith upon the registration of an address under subsection (1) on behalf of such estate.

(3) Where notice of a hypothecary action is issued under section 9 and in manner provided by section 10—

- (a) to any executor or administrator or to any assignee, curator or manager who has registered an address as provided in subsection (1) ; or

- (b) to any other person who has registered an address as provided in subsection (2) and whose address is for the time being registered, and if the deceased person, insolvent, minor or person of unsound mind had himself registered an address under section 6, to the address registered by him,

notice of the hypothecary action shall be deemed to have been duly issued for the purpose of binding the estate of such deceased person, insolvent, minor or person of unsound mind.

(4) In any case referred to in paragraph (b) of subsection (3), any person to whom notice of the hypothecary action is issued or any other person may, within one month of the date of the posting of the notice or of the publication thereof, whichever is the later, or where the notice is served in like manner as a summons, within one month of the date of such service, make application to the court for the appointment of some person to represent the estate of the deceased or of the insolvent, minor or person of unsound mind as the case may be, and the court shall appoint a person accordingly.

In making such appointment the court shall appoint as representative a person who after summary inquiry appears to court to be the person to whom probate of the will or letters of administration to the estate of the deceased would ordinarily be issued, or who would ordinarily be appointed to be the curator, assignee or manager of the estate, as the case may be :

Provided, however, that in the event of a dispute between persons claiming to be entitled to be so appointed, the court shall appoint as representative such of those persons or such other person, whose appointment in the opinion of the court will be in the interests of the estate.

Where the court is satisfied that proceedings are pending for the appointment of an executor, administrator, assignee, curator or manager, the court may on that ground postpone the appointment of a representative for any period not exceeding three months.

29. (1) Where notice of a hypothecary action is issued under section 9 and in manner provided by section 10 to the registered address of a person entitled to notice of the action, then, notwithstanding

Estate to be bound if notices issued as provided in section 28.

that such person may be or may have been dead or an insolvent or a minor or person of unsound mind at the time of the issue of the notice, the estate of such person shall be bound by every order, decree or sale or thing done in the hypothecary action whether or not application is made under subsection (4) of section 28 for the appointment of a representative, unless the executor or administrator or assignee, curator or manager or any other person had registered an address on behalf of the estate under subsection (1) or subsection (2) of that section.

(2) In any case where notice of a hypothecary action is in manner provided in section 10 issued to an executor, administrator, curator, assignee or manager who has registered his address as provided in subsection (1) of section 28, then, notwithstanding such death, insolvency, minority or unsoundness of mind, the estate shall be bound by every order, decree or sale or thing done in the hypothecary action, whether or not such executor, administrator, assignee, curator or manager becomes a party to the action.

(3) Where—

(a) notice of a hypothecary action is issued under section 9 and in manner provided by section 10 to any person who has registered an address under subsection (2) of section 28 on behalf of the estate of a deceased person or insolvent or person of unsound mind or minor ; and

(b) if the deceased person, insolvent, person of unsound mind or minor had himself registered an address, such notice is issued to that address,

then, notwithstanding the death, insolvency, minority, or unsoundness of mind, the estate shall be bound by every order, decree or sale or thing done in the hypothecary action, whether or not a representative is appointed under subsection (4) of section 28 and becomes a party to the action,

30. Where any person having any interest in a mortgaged land, to which the mortgage in suit has priority, has not registered an address under section 6, and no other person registers an address on his behalf or on behalf of his estate as provided

in subsection (1) or subsection (2) of section 28, then, notwithstanding that the person having such interest may be dead or an insolvent, minor, or person of unsound mind at the time of the institution of the hypothecary action, the estate of such person shall be bound by every order, decree or sale or thing done in the hypothecary action.

31. (1) The provisions of sections 28 to 30 shall not apply in the case of any action instituted for the enforcement of a mortgage created before the appointed date.

Special provision for actions on mortgages created before the appointed date.

(2) Where a hypothecary action is instituted for the enforcement of a mortgage created before the appointed date, and the court is satisfied that any person entitled to notice of the action is or was dead or an insolvent, minor or person of unsound mind before or at the time of the issue to him of notice of the action, the person to whom probate of the will or letters of administration to the estate of the deceased is granted, or, as the case may be, the duly appointed assignee or curator or manager shall be added as a party to the action upon application made to the court in that behalf whether by such person or by any party to the action :

Provided, however, that it shall be lawful for the court in the circumstances and subject to the conditions set out in section 26 to appoint a representative of the deceased for the purpose of the hypothecary action, and in any such case the representative so appointed may be added as a party to the action in lieu of the executor or administrator.

(3) Where the executor or administrator or the duly appointed representative of a deceased person, or, as the case may be, the assignee, curator, or manager of the estate of the insolvent, minor, or person of unsound mind is not added as a party under subsection (2), the executor or administrator or, as the case may be, the assignee, curator or manager shall—

(a) be entitled upon making a claim in that behalf under section 57 to participate in the proceeds of sale remaining after satisfaction of the amount decreed to be due upon the mortgage in suit in the action ; or

Estate to be bound notwithstanding death, &c., if address not registered.

(b) if he does not so participate, be deemed to be a party omitted for the purpose of enabling an action to be brought by or against him under section 19 and if such an action is brought the provisions of sections 20 to 23 shall apply accordingly.

Death, insolvency or unsoundness of mind of mortgagor after entry of decree.

32. Where any mortgagor dies or is adjudged an insolvent or a person of unsound mind at any time after the entry of decree in a hypothecary action and before the sale of the mortgaged land under the decree, no proceedings for the execution or enforcement of the decree shall be taken, or if taken shall be of any effect, unless the duly appointed executor of the will or administrator of the estate of the deceased or a representative appointed under section 26, or, as the case may be, the assignee or manager of the estate of the insolvent or person of unsound mind, is made a party to the action.

POWER OF PLAINTIFF TO JOIN CLAIMANTS ADVERSE TO MORTGAGOR OR TO APPLY FOR DECLARATION AS TO POSSESSION OF LAND IN THE EVENT OF SALE

Power of plaintiff to join claimant adverse to mortgagor.

33. (1) The plaintiff in a hypothecary action may at his option join as a party to the action any person alleged by the plaintiff to claim any right to ownership or possession of the mortgaged land by title adverse to that of the mortgagor.

(2) Where any person is so joined as a party to the action, such person or any other party may raise any issue upon any question relating to the right of ownership or possession of the land ; and in any such case the court shall, after hearing such evidence as may be adduced by any party to the action, make an adjudication upon the issue so raised.

(3) Where the adjudication of the court upon any issue raised as hereinbefore provided is to the effect that the mortgagor is not entitled to the land or any part or share thereof, no decree shall be entered in the action for the sale of the land or such part or share thereof, as the case may be.

(4) Where any person is joined as a party to the action under subsection (1), every adjudication by the court on any question relating to the title of the land or to the right of possession thereof shall be *res adjudicata* as between all parties to the action including the party so added.

34. (1) Upon the institution of a hypothecary action in respect of any land, the plaintiff may at his option, at any time after the registration of the *lis pendens* of the action and before the issue of a precept or order for the service of summons, make application to the court for a declaration. that, in the event of decree being entered for the sale of the land the court will order the removal from the land of all persons whomsoever who may resist the delivery of possession to the purchaser at the sale.

provision for declaration by court as to removal from land of persons claiming adversely to mortgagor.

No such application shall be entertained by the court unless it is accompanied by a plan of the land.

(2) Upon such application being made, the court shall direct—

(a) that notices of the application shall be published in two separate issues of each of two newspapers specified by the court ;

(b) that such notices shall be posted by the Fiscal under a precept from court in at least three conspicuous places on the land, and that similar notices shall be posted at the District Court, Magistrate's Court and Primary Court if any, having jurisdiction in the area in which the land is situated, at the kachcheri of the district in which the land is situated, and at such other places as the court may think fit ;

(c) that notice of the action shall be published by beat of tom-tom in the vicinity of the land on two specified dates in the presence of a Fiscal's officer or grama seva niladhari or other officer specified by the court.

(3) Every notice under subsection (2) shall contain a statement to the effect that a plan of the land has been filed in the court and will be available for inspection by any person interested.

(4) For the purposes of paragraph (a) of subsection (2), the court shall direct publication in two newspapers which appear to the court to be the most appropriate for the purpose of conveying information of the action to the residents of the area in which the land is situated.

(5) The notices required to be posted by paragraphs (b) and (c) of subsection (2) shall be posted either before the date of the last publication of the notice under paragraph (a) of subsection (2) or not later than two weeks after that date.

is not entitled to the land or to any part or share thereof, the court shall make order dismissing the hypothecary action in so far as it relates to the land or such part or share.

Right of claimant to be added as party and to raise issues as to right of possession, &c.

35. (1) Where notices have been published and posted as provided in section 34, any person claiming to be entitled to possession of the land or of any part or share thereof under any right or title adverse to that of the mortgagor shall be entitled, on application made to the court in that behalf at any time within two months of the date of the last publication of the notice under paragraph (a) of section 34 (2), to be added as a party to the action for the purpose of securing an adjudication by the court upon his claim.

(3) Where the adjudication of the court upon any such issue is that any party added under section 35 is entitled to possession of the land or any part thereof and that the mortgage in suit in the action is subject to the rights of such person, no declaration shall be made under subsection (1) of this section in respect of the land or that part thereof, as the case may be.

(2) Where any person is added as a party under subsection (1), such person or any other party may raise any issue (including an issue on a question of title) relevant to the claim to possession of the land and in any such case the court shall, after hearing such evidence as may be adduced by any party to the action, make an adjudication upon the issue so raised.

(4) Where any person is added as a party to the action under section 35, every adjudication by the court upon any question relating to the title to the land or to the right to possession thereof shall be *res adjudicata* as between all the parties to the action including the parties so added.

Order of court upon application under section 35.

36. (1) Where no person makes application to be added as a party under section 35, or where the court is satisfied that none of the persons so added is entitled to possession of the land, the court shall make the declaration for which application was made by the plaintiff under subsection (1) of section 35 :

(5) The making of a declaration under this section, or the removal from the land of any person in pursuance of the order made under section 55 in terms of such declaration—

- (a) shall not affect or prejudice the right of any person (other than (i) a person declared by the preceding sections of this Act to be bound by the decree, or (ii) a person added as a party under this section) to institute proceedings for the recovery of possession of the land from the purchaser or for declaration of title thereto ; and
- (b) shall not operate as *res adjudicata* in such proceedings upon any question as to the right to possession or ownership of the land.

Provided, however, that where any person appears before the court at any time within the period of two months specified in subsection (1) of section 35, and satisfies the court—

- (a) that he was placed in charge of the land by a person who is absent from Sri Lanka ; and
- (b) that there is no duly appointed attorney in Sri Lanka of such last-mentioned person,

the court shall not make such declaration.

(2) Where the adjudication of the court upon any issue raised as hereinbefore provided is to the effect that the mortgagor

Such application shall be supported by affidavit of the plaintiff stating the sum lent to the mortgagor, the sum, if any, repaid

APPOINTMENT OF RECEIVER OF MORTGAGED LAND

37. (1) The plaintiff in a hypothecary action may, at any time after the registration of the *lis pendens* of the action, make application to the court by petition for the appointment of a receiver of the land which is the subject of the action.

Application for appointment of receiver of mortgaged land.

out of the loan, the sums due to the mortgagee by way of principal and interest, and the current market value of the mortgaged land.

(2) Subject as hereinafter provided, the application for the appointment of a receiver shall, unless the plaintiff otherwise desires, be dealt with *ex parte* by the court :

Provided, however, that where the application is made at any time after the filing, of an answer by the mortgagor, the application shall be dealt with after notice to the mortgagor.

(3) This section and sections 38 to 45 shall not apply to any action upon a mortgage created before the appointed date.

Cases where court may refuse to appoint receiver.

38. (1) The court may refuse to make an order for the appointment of a receiver—

- (a) if, having regard to the situation, nature and value of the land and the amount which in the circumstances of the case can reasonably be allowed as remuneration to a receiver, the court is of opinion that a suitable person is not available for such appointment;
- (b) if it appears to the court that the amount claimed by the plaintiff to be due on the mortgage, less such amount, if any, as may have been brought into court by the mortgagor is not more than one-half of the current market value of the land;

(2) Save as provided in subsection (1), the court shall not refuse to make an order for the appointment of a receiver upon application duly made in that behalf.

Notwithstanding anything in subsection (1), the court shall not refuse to make an order for the appointment of a receiver in any case where the court is satisfied that the mortgagor or other person in possession of the mortgaged land has committed any act of waste in respect of the land and that the appointment of a receiver is necessary for the purpose of the prevention of such acts.

39. (1) The court may cancel the appointment of a receiver— Cancellation of appointment.

- (a) at the instance of the plaintiff; or
- (b) where the appointment had been made without notice to the mortgagor, if it is subsequently shown to the satisfaction of the court that the amount claimed by the plaintiff to be due on the mortgage, less such amount if any as may have been brought into court by the mortgagor, is not more than one-half of the current market value of the land ; or
- (c) if the court considers such cancellation expedient owing to any default or negligence on the part of the receiver, or if the court is satisfied that the amount of the remuneration allowed to the receiver is excessive and that he is unwilling to accept as remuneration the amount which the court, after hearing the mortgagor, considers to be reasonable ; or
- (d) at the instance of the receiver, if he is unwilling to continue in his appointment as such.

(2) Where the appointment of a receiver is cancelled under paragraph (c) or paragraph (d) of subsection (1), the court may, if the plaintiff so desires, make a new appointment of a receiver.

40. (1) Every order for the appointment of a receiver shall— Order for appointment, &c.

- (a) provide for the committal of the land to the custody and management of the receiver ;
- (b) fix the amount of the remuneration to be payable to the receiver, whether specifically or by reference to a specified percentage of the amount of the rents and profits derived from the land.

(2) The court may, if it considers it necessary so to do, require the receiver to give such security as the court may consider adequate.

(3) Where the receiver is obstructed by any person in taking custody of the land, the court may, after considering such representations as may be made by such person, by order direct the removal of such person from the land.

the court may, after considering how far it is necessary to keep in court the amount of the rents and profits or any part thereof for the purpose of securing that the land and the amount so kept will provide adequate security for the payment of the amount claimed by the plaintiff to be due to him, direct the payment to the mortgagor, out of the balance so remaining, of a monthly allowance sufficient to meet such expenses of the mortgagor.

Rights and powers of receiver.

- 41. (1) The person appointed under this Part to be the receiver of any land shall have and may exercise all the rights and powers of the owner of the land for the management, protection, and preservation of the land and the collection of the rents and profits thereof.

(2) Any directions given under subsection (1) may be varied or revoked by the court on application made by the plaintiff or the mortgagor.

(2) The court may on application made by the receiver or any party to the action—

- (a) give such directions as it may consider necessary relating to the exercise of the rights and powers conferred by subsection (1) ;
- (b) by order authorize the receiver to institute or defend any action or proceedings in respect of any matter affecting the land or the administration or management thereof.

44. (1) AH moneys paid into court by the receiver shall, unless the court otherwise directs, be kept in court to the credit of the action until the final disposal thereof :

Nett profits to be kept in court.

Provided that payment may from time to time be made, out of such moneys, of the remuneration due to the receiver, or of such amounts as may be directed under section 43 to be paid to the mortgagor, or of such amounts as may from time to time be ordered by the court to be paid to the receiver for the purposes of the management of the land.

Duties and liabilities of receiver.

42. Every receiver appointed under the preceding provisions of this Part shall—

- (a) render accounts to the court in such form and at such times as the court may direct in that behalf ;
- (b) make payment into court to the credit of the action, from time to time as the court may direct, of the nett rents and profits of the land ;
- (c) be responsible for any damage to the land, or for any loss of income, incurred by his gross negligence or by any intentional act of omission on his part.

(2) The amount of the moneys in court shall be applied in satisfaction of the sums if any for which decree is entered in the action.

(3) No seizure of such moneys in execution of any order or decree in any other action shall affect the operation of subsection (2) of this section.

45. No appeal shall lie against the refusal of the court to make any order for the appointment of a receiver or against any order appointing a receiver or against any other order or directions made or given under any of the provisions of sections 37 to 43, other than an order made under subsection (3) of section 40.

Restriction of appeals against orders under sections 37 to 43.

Payment of subsistence allowance to mortgagor.

43. (1) Where it is shown to the satisfaction of the court—

- (a) that the income, if any, derived by the mortgagor from sources other than the land is insufficient to enable the mortgagor to meet the expenses necessary for the subsistence of himself and his dependants, and
- (b) that any balance remains out of the nett rents and profits of the land after payment therefrom of the remuneration of the receiver,

SALE UNDER HYPOTHECARY DECREE

46. No decree in any hypothecary action upon any mortgage of land which is created after the appointed date and no decree in any action for the recovery of any moneys due upon any such mortgage, shall order any property whatsoever, other than the mortgaged land, to be sold for the recovery

Property liable to sale in execution of decree.

of any moneys found to be due under the mortgage, and no property whatsoever, other than the mortgaged land, shall be sold or be liable to be sold in execution of any such decree.

In this section "action for the recovery of moneys due upon a mortgage" includes any action for the recovery of any debt secured by a mortgage whether the cause of action sued upon arises by reason of the mortgage or otherwise.

Operation of section 46.

47. The provisions of section 46 shall have effect notwithstanding anything in any other law or in any mortgage bond or other instrument.

Order for sale in decree, &c.

48. (1) Where in a hypothecary action the court finds that the mortgage ought to be enforced, the decree shall, in relation to the mortgaged land, order that the land shall be sold in default of payment, within a period of two months from the date of the decree, of the moneys due under the mortgage :

Provided, however, that the court may, in its discretion and subject to such conditions including the making of specified payments on specified dates as it thinks fit, on application made in that behalf before the entry of the decree and after consideration of the circumstances of both the mortgagor and mortgagee, fix, in lieu of the aforesaid period of two months, such longer period as the court may consider reasonable.

(2) In issuing the commission for the sale of the mortgaged land the court shall specify the amount due under the decree at the time of the issue of the commission and the amount so specified shall be mentioned in the advertisement of the sale.

Where the sale is stayed or adjourned and a subsequent advertisement is necessary, the court shall on application made by the plaintiff and upon his certifying that any part payment has been made of the amount due under the decree, give notice to the Fiscal or auctioneer of the amount due under the decree at the time of such application, and in such event the amount so notified shall be mentioned in the subsequent advertisement.

49. Subject as hereinafter provided, where the plaintiff desires that the land shall be seized prior to the sale, the court may order that the land shall be seized by the Fiscal under section 237 of the Civil Procedure Code and where the land is so seized the provisions of the Civil Procedure Code relating to the seizure, sale, confirmation of the sale, and conveyance and delivery of immovable property sold in execution of a decree for the payment of money shall apply accordingly and the provisions of sections 53 to 56 of this Act shall not apply :

Special provision for seizure and sale,

Provided that no such order shall be made in any case where a declaration has been made under section 36.

50. (1) Where no order is made under section 49 for the seizure of the land, the court may in the decree or subsequently give directions—

Directions and other provisions as to sale.

- (a) specifying the person by whom the land shall be sold ;
- (b) specifying the manner and time of the advertisement of the sale and the person by whom the conveyance to the purchaser is to be executed ;
- (c) prescribing the conditions of the sale ;
- (d) in relation to such other matters for which the court considers directions to be necessary.

(2) Where the plaintiff so desires the court may direct the land to be sold by the Fiscal, and in any such case the sale may be conducted on behalf of the Fiscal by the Deputy Fiscal or by any other person authorized in writing by the Fiscal.

(3) Any directions given under the preceding provisions of this section may be altered by subsequent directions of the court.

(4) Where no order is made under section 49 for the seizure of the land, the following provisions shall apply in relation to the sale ;—

- (a) The person conducting the sale shall put up the land for sale first at the current market value of the land as appraised by him, or if the appraised value is fixed by the court under section 51 (3) at such

appraised value, and if there be no bidders then at the amount mentioned as required by section 48 in the advertisement as the amount due under the decree and in the event of there being no bidders at such sale also, then immediately thereafter the land shall be put up for sale to the highest bidder :

Provided that where an order has been made under section 52 (1), the land shall not be sold at the first sale if the highest bid is less than the appraised value as fixed under section 51 (3) ;

- (b) If the judgment debtor or any other person on his behalf, at any time before the hour fixed for the sale, pays to the officer conducting the sale the full amount mentioned as required by section 48 in the advertisement as the amount due under the decree and also the charges incurred for advertisement and incidental to the sale of the land, the sale shall be stayed ;
- (c) In every case where a sale has taken place the person conducting the sale shall (i) not later than forty-eight hours after the time of the sale, deposit at the nearest kachcheri to the credit of the action the amount realized at the sale and forward the kachcheri receipt to the court by which the order to sell was issued, and (ii) in making the report required by section 282 of the Civil Procedure Code, specify the manner in which the sale has been held, the name of each bidder and each bid made by such bidder ;
- (d) Every person making a bid at the sale shall be bound by the conditions of sale prescribed by the court under the preceding provisions of this section whether or not he signs an agreement to be bound thereby ;
- (e) If the court finds that any sum is due in respect of the sale by reason of the operation of the conditions of sale from any person bound by such conditions, the court may make order directing the payment of such sum by such person to the credit of the action, and such order may be enforced in the same manner as an order or decree entered by the court in an ordinary action.

51. (1) The plaintiff in a hypothecary action shall not be entitled to bid for or purchase any mortgaged land sold in execution of the decree unless leave to bid and purchase is granted to him by the court.

Leave to plaintiff to bid and purchase.

(2) Every application by the plaintiff for leave to bid for and purchase any mortgaged land shall be accompanied by an appraisalment from the person directed to conduct the sale setting out the current market value of the land.

A copy of such appraisalment shall be sent by the Registrar by registered post to the registered attorney for the mortgagor or where no proxy has been filed shall be served on the mortgagor in like manner as a summons and copies shall be sent by registered post to every other party to the action who has registered an address under section 6 ; the mortgagor or any such party may within a period of fourteen days from the date of the service or posting of the copy make objection to the valuation set out therein.

(3) The court shall, after consideration of such objections, if any, as may be made under subsection (2), by order fix the amount which shall be taken, for the purposes of the succeeding provisions of this section, to be the appraised value of the land.

(4) Leave to the plaintiff to bid for and purchase any mortgaged land shall in every case be subject to the condition that the plaintiff shall not bid for or purchase the land except at or above the amount of the appraised value of the land as fixed under subsection (3) or the amount required by section 48 to be mentioned in the advertisement as the amount due under the decree, whichever such amount is the less.

(5) Where two or more lands are subject to the mortgage and one advertisement only is published in respect of the sale of such lands, it shall be the duty of the Fiscal or auctioneer to specify in the advertisement the order in which such lands will be sold, whether or not directions prescribing the order of sale are given under section 52.

(6) Where application is made under subsection (2) after the publication of the advertisement of the sale, and it is necessary in consequence of such application to alter the date of the sale and publish a fresh advertisement of the sale, the court may order that the costs of the postponement and of the fresh advertisement, shall be borne by the plaintiff.

(7) No appeal shall lie against any order made under this section.

Directions for second sale if highest bid is less than current market value.

52. (1) The court may in any hypothecary action on application made by the mortgagor and upon such terms as the court may think fit, direct that if the highest bid at the sale of any mortgaged land is less than the amount of the appraised value of the land as fixed under section 51 (3), the land shall not be sold at that sale, and that a second sale of the land shall be held.

Order of sale where more than one land is mortgaged.

(2) Where more than one land is subject to the mortgage in suit in the action, the court may upon application made by the mortgagor in that behalf, prescribe the order in which the lands shall be sold and may fix different dates for the sales of different lands.

Form of conveyance to purchaser.

53. The conveyance to the purchaser of any mortgaged land sold in execution of a hypothecary decree shall, except in a case to which section 49 applies, be in the form in the First Schedule to this Act :

Provided, however, that such form may in any case be varied or modified by the court in such manner as the court may consider necessary in the circumstances of the case.

Delivery of possession, &c.

54. In any case, other than a case in which a declaration has been made under section 36 or in which an order is made under section 49, the court shall on application made by the purchaser make an order for the delivery of possession to the purchaser or any other person on his behalf, and an order so made shall have the like effect and be enforced in the same manner as an order made under section 287 of the Civil Procedure Code in the case of a sale by the Fiscal under that Code.

Removal of all persons whomsoever where declaration has been made under section 36.

55. (1) In any case where a declaration has been made under section 36, the court shall on application made by the purchaser order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the land, and if need be, by removing therefrom all persons whomsoever who may refuse to vacate the same.

(2) Where an order is made under subsection (1), and the Fiscal reports to the court that he was unable to put the purchaser or any other person on his behalf in possession of the land, the court shall direct the Fiscal to post in conspicuous places on the land a notice in the form set out in the First Schedule to this Act and to report to the court within seven days of the posting of such notice—

- (a) whether or not the purchaser or such other person was put in possession of the land ; and
- (b) whether he was obstructed in attempting to put the purchaser or such person in possession, and if so, the manner of such obstruction and the person or persons by whom such obstruction was caused.

(3) Where the court is satisfied upon the report of the Fiscal that any person whosoever refused to yield up possession at any time after the date of the posting of the notice referred to in subsection (2) or obstructed or resisted the Fiscal at any time after that date, the court may commit the person so refusing to yield up possession or causing such obstruction or resistance to jail for a term which may extend to thirty days, and direct the purchaser to be put into possession of the land.

(4) Where possession of the land is delivered to the purchaser and he is at any time within two months thereafter hindered or obstructed by any person in maintaining effective possession of the land, the court may commit the person causing such hindrance or obstruction to jail for a term which may extend to thirty days :

Provided, however, that nothing in the preceding provisions of this subsection shall affect or prejudice the right of the purchaser upon any such hindrance or obstruction being caused (whether within or after the period of two months aforesaid) to any remedy which may be claimed in that behalf under any written or other law.

(5) Nothing in sections 323 to 330 of the Civil Procedure Code shall apply in any case where an order for the delivery of possession to the purchaser or any other person on his behalf is made under this section.

Fiscal to prepare plan of the land of which possession is delivered.

56. Where delivery of possession of a mortgaged land has been made to the purchaser under section 54 or section 55, the Fiscal shall upon a request made in that behalf by the purchaser and the payment by the purchaser of the necessary expenses, cause a plan to be prepared of the land of which possession was delivered. The plan so prepared shall after being endorsed by the Fiscal with a certificate to the effect that it is a plan of the land of which possession was delivered be furnished to the purchaser.

Claims to balance proceeds of sale.

57. Where any land is sold in execution of a hypothecary decree in respect thereof, any person who claims any interest in the balance of the proceeds of sale remaining after satisfaction of the moneys due under the mortgage in suit in the action shall (whether or not he is a party to the action or a person entitled to a notice thereof) be entitled to establish such claim, and where such claim is established to participate in such balance proceeds.

Rights of seizing creditor to participate in balance proceeds of sale.

58. (1) Where any land is sold in execution of a hypothecary decree in respect thereof—

- (a) any judgment-creditor claiming under a notice of seizure of the land which had been duly registered under the Registration of Documents Ordinance before the registration of the *lis pendens* of the hypothecary action shall, whether or not he has registered an address under section 6 of this Act, be entitled to make a claim under section 57 and to participate in the proceeds of sale remaining after satisfaction of the moneys due on the mortgage in suit in the hypothecary action ;

- (b) no person claiming under any seizure of the land effected or registered after the date of the registration of the *lis pendens* of the hypothecary action shall, by reason of such seizure, be entitled to participate in such balance proceeds, but nothing in this paragraph shall prejudice the right of such person after the sale of the land to seize the right, title and interest of the mortgagor in such balance proceeds.

(2) The rights of any person claiming under a notice of seizure to participate in the balance proceeds as provided in paragraph (a) of subsection (1), shall, as between himself and any other person claiming whether under a notice of seizure or any other instrument, have priority according to the time of registration :

Provided, however, that where two or more notices of seizure of any land are registered by different persons and no other person has any interest in the land by virtue of any other instrument registered between the dates of the registration of such notices of seizure, such different persons shall be entitled to claim a rateable distribution of the balance proceeds of sale remaining available for distribution.

MISCELLANEOUS

59.* Where a hypothecary action is heard *ex parte* under sections 84 and 85 of the Civil Procedure Code the decree entered thereunder shall not be set aside under the provisions of section 86 of that Code, and the judgment entered thereunder shall not be deemed to be a judgment entered upon default for the purpose of section 88 of that Code.

Decree absolute in default of appearance.

60. (1) A mortgagee's costs recoverable in a hypothecary action include all costs, charges and expenses properly incurred by him in relation to the action whether before or after the institution of the hypothecary action notwithstanding that they may have been incurred after the entry of decree in the action.

Costs.

(2) In any case where notice of a hypothecary action is not issued under subsection (1) of section 9 to a person entitled to such notice and such person is thereafter added as a party whether in pursuance of a notice under subsection (2) of that section or under section 13 or such person intervenes in the action under section 18, the court shall have the power to make such orders as to costs, whether as against the plaintiff or otherwise, and to revise any orders previously made in the proceedings, as the court may think fit in the circumstances of the case.

* This section has been recast as references to "decree nisi" and "decree absolute" in sections 84 and 85 of the Civil Procedure Code have been omitted by a 1977 amendment of that Code.

Application of Chapter XXII of the Civil Procedure Code.

61. (1) Where the mortgaged land is directed to be sold by any person other than the Fiscal, or where the mortgaged land is directed to be sold by the Fiscal without being previously seized as provided in section 49—

(a) sections 271, 273, 282, 283, 289 and 291 to 295 of the Civil Procedure Code shall be applicable ;

(b) section 297 of that Code shall be applicable if the property is sold by the Fiscal;

(c) sections 338 to 340, 342, 344, 345, 346, 349 and 350 of that Code shall be applicable ;

(d) section 343 of that Code shall be applicable, subject to the modification that the court shall not under that section stay execution proceedings for the purpose only of allowing time for payment by the judgment-debtor, unless he satisfies the court that there is reason to believe that the amount of the decree may be raised by mortgage, lease or private sale of the mortgaged land or of any other immovable property of the debtor, and to the further modification that the time allowed for the purpose aforesaid shall not be longer than six months ;

(e) sections 288 and 323 to 330 of that Code shall be applicable in every case where an order is made under section 54 of this Act for the delivery of possession of the mortgaged land to the purchaser at the sale ;

(f) save as hereinbefore provided, nothing in Chapter XXII of the Civil Procedure Code shall be applicable.

(2) For the purpose of the application of the provisions of the Civil Procedure Code where the land is sold by a person other than the Fiscal, any reference in those provisions to the Fiscal shall be deemed to be a reference to the person conducting the sale.

(3) Nothing in sections 298 to 319 of the Civil Procedure Code shall apply in any hypothecary action or any action to enforce payment of the moneys due upon a mortgage of land.

(4) Where the mortgaged land is sold by the Fiscal after being seized as provided in section 49, and an order for the delivery of possession is made under section 287 of the Civil Procedure Code, the provisions of sections 323 to 330 of that Code shall be applicable.

62. Save as otherwise hereinbefore provided, the provisions of this Part shall apply to mortgages created before the appointed date :

Application of this Part.

Provided that nothing in those provisions shall apply to any action instituted before the appointed date, and the provisions of the Mortgage Ordinance shall, notwithstanding the repeal thereof, continue to apply in relation to any action instituted before that date.

PART III

CONVENTIONAL GENERAL MORTGAGE-FLOATING AND CONCURRENT MORTGAGE—POWER OF ATTORNEY To CONFESS JUDGMENT

63. No conventional general mortgage, executed after the 14th day of January, 1871, shall be valid and effectual, so as thereby to give the mortgagee any lien, charge, claim, or priority over or in respect of any property movable or immovable.

General mortgages abolished.

64. (1) In any of the following cases, that is to say :—

Effect of mortgages to secure future liability, &c.

(a) where a mortgage is given to secure future advances (whether with or without any previous advances or other liability) ;

(b) where a mortgage is given to secure the floating balance from time to time due upon any account;

(c) Where a mortgage is given to secure any contingent liability,

such mortgage shall, subject to the provisions of subsections (2) and (3), be effective to the full extent of the charge intended to be created thereby as against any person claiming under any subsequent mortgage or transfer, notwithstanding that no money may have been actually due at the date of such subsequent mortgage or transfer in respect of the liability intended to

be secured, and irrespective of the actual amount so due on such date.

(2) Where any property which is subject to a mortgage given for any purpose mentioned in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) is seized in execution of a decree in favour of any person other than the mortgagee, the seizing creditor may make application to the court by which the decree was entered for the issue of a notice of such seizure on the mortgagee ; and where such notice is issued, then, notwithstanding anything in subsection (1), the mortgage shall as against a person purchasing such property at a sale under the seizure or any other person claiming under him, be effective only to the extent of the moneys actually due under the mortgage at the date of the receipt by the mortgagee of the notice issued by the court, under the preceding provisions of this subsection.

(3) The preceding provisions of this section shall apply to the mortgage of any property movable or immovable :

Provided, however, that where a mortgage of movable property is given for any purpose referred to in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1), the preceding provisions of this section shall affect only the extent to which the property is subject to the mortgage, and the movable property shall not, by reason of the operation of those provisions, be deemed or construed to continue to be subject to the mortgage to any extent whatsoever as against any person claiming under a subsequent mortgage or transfer, unless—

- (a) such property continues, by virtue of any law other than this Act, to be subject to the mortgage to the extent of the moneys actually due thereunder at the date of the subsequent transfer or mortgage ; or
- (b) where no moneys are actually due at that date, unless such property would by virtue of such other law have continued to be subject to the mortgage if moneys had been actually due thereunder at that date.

(4) Nothing in subsection (2) shall apply in the case of any mortgage given for the purpose of guaranteeing the fidelity of a person employed as the servant or agent of another person or of securing the due custody and payment of moneys which may come into the hands of any person in his capacity as such servant or agent.

(5) In this section "transfer" includes any instrument creating any interest in the mortgaged property -

65. (1) Where a mortgage bond is executed in favour of two or more persons (each of whom is hereinafter referred to as a "mortgagee") in consideration of sums due or to be due to each of such persons by the mortgagor,

Action by concurrent mortgagee.

- (a) any such mortgagee to whom any moneys secured by the mortgage are due and payable, may institute a hypothecary action for the enforcement of the mortgage, and in such action join as a defendant every such mortgagee who is not a plaintiff in the action ;
- (b) any such mortgagee, whether or not he is a plaintiff in the action, shall be entitled to prove before decree the amount of the moneys due to him under the mortgage, and the decree shall order payment of separate amounts to each mortgagee who has so proved the amount due to him ;
- (c) the mortgaged property shall be liable to be sold under the decree on application made by any of the mortgagees to whom payment is ordered by the decree notwithstanding that the amounts due to all the mortgagees have not been proved before decree, and the sale of the mortgaged property in execution of the hypothecary decree shall extinguish the rights in relation to the property of every such mortgagee, whether he is joined as a plaintiff or as a defendant;
- (d) the court shall make such orders in relation to the distribution of the proceeds of the sale or the retention

thereof in court, as may be necessary having regard to the rights of the parties to payment out of such proceeds or to any other interests of the parties in such proceeds ; and any mortgagee who has not proved his claim before decree may prove such claim after decree :

Provided, however, that if payment out of the proceeds of the sale is not made to any such mortgagee by reason that a claim of any other such mortgagee in such proceeds has not been proved, and if such other claim remains unproved for a period of six months after the sale, the court shall order payment to be made out of such proceeds to such mortgagees whose claims have been proved whether before or after decree.

(2) In any action upon any mortgage bond referred to in subsection (1) no leave to bid for and purchase any mortgaged land shall be granted to any mortgagee under section 51 except upon the condition that he shall not bid for or purchase the land except at or above the total amount due under the decree to all the mortgagees to whom payment is ordered to be made thereby, or the appraised -value of the land as fixed under subsection (3) of that section, whichever is less.

(3) Where in any action upon any mortgage bond referred to in subsection (1), the court has made an adjudication as to the amount due under the mortgage to every mortgagee, then any such mortgagee shall, at the sale of the mortgaged land—

- (a) if the full amount ordered in the decree to be paid to all the mortgagees is greater than the appraised value of the land, be given credit • in an amount which bears to the appraised value the same proportion as the amount ordered in the decree to be paid to him bears to the full amount so ordered to be paid to all the mortgagees ; or
- (b) if the appraised value is the same as or greater than the full amount so

ordered to be paid, be given credit up to the amount ordered in the decree to be paid to him.

(4) Where in any action upon a mortgage bond referred to in subsection (1) the court has made an adjudication as to the amount due under the mortgage to one or some only, but not all, of the mortgagees, no mortgagee shall at the sale of the mortgaged land be given any credit notwithstanding that any amount may be ordered in the decree to be paid to him.

(5) The preceding provisions of this section shall apply in the case of every bond referred to in subsection (1) notwithstanding anything in the bond contained :

Provided that those provisions shall not apply where the bond contains provision expressly referring to this section and excluding its operation.

66. (I) In the case of any mortgage created after the appointed date, no warrant or power of attorney shall be given to any person to confess judgment in any action for the enforcement of the mortgage, and no warrant or power so given shall be of any force or effect in law :

Warrant of attorney to confess judgment in mortgage action.

Provided that nothing in the preceding provisions of this section shall apply in any case where a general power of attorney referred to in section 25 of the Civil Procedure Code has been granted by any mortgagor.

(2) Where a warrant or power of attorney to confess judgment in any action for the enforcement of a mortgage has, at any time before the appointed date, been given to a proctor, no judgment or decree in such action, whether entered before or after such date, and no sale in execution of such decree, shall be or be held to be invalid on the ground that—

- (a) the warrant or power, being executed in the form No. 12* in the First Schedule to the Civil Procedure Code, did not authorize the proctor to consent to the entry of judgment or decree for the sale of any property of the mortgagor ; or
- (b) the warrant or power was not executed in the aforesaid form No. 12* in that it contained provision authorizing

* Form No. 12 is omitted from this Edition.— See Civil Procedure Code.

or purporting to authorize the proctor to consent to the entry of judgment or decree for the sale of any property of the mortgagor ; or

one other witness ; and where such instrument is so signed and attested, nothing in section 2 of the Prevention of Frauds Ordinance shall apply thereto.

- (c) the warrant or power authorized the proctor to consent to the entry of judgment or decree for a specified sum and not for the sum due and payable under the mortgage.

(2) Every instrument referred to in section 69 shall be executed in duplicate.

(3) Every approved credit agency—

(a) shall cause to be numbered with consecutive integral numbers the instruments executed in its favour under section 69 according to the order in which they are executed ;

(b) shall, before the fifteenth day of each month, deliver or transmit to the Registrar of Lands of the district in which it carries on business the duplicates of all such instruments executed in its favour during the preceding month together with a list of the instruments ;

(c) shall deliver or transmit to the Registrar of Lands of the district in which it carries on business, so as to reach the Registrar on or before Wednesday in each week, a list of such instruments executed in its favour during the week ending the previous Saturday ;

(d) if any such instrument affects a land situated in any district other than that in which the agency carries on business, shall, on or before the fifteenth day of the month following that in which the same was executed, besides transmitting the duplicates in manner aforesaid, deliver or transmit a copy of the instrument to the Registrar of the district in which such land is situated, together with a list of all such instruments as relate to lands in such last-mentioned district; and

(e) if any such instrument is executed by an attorney, shall forward a copy of the power of attorney to the Registrar of Lands, together with the duplicate of the instrument.

(4) An instrument referred to in section 69 may be registered under the Registration of Documents Ordinance as an instrument affecting land.

Production to court of title deeds of mortgaged land.

67. Where the mortgagee of any land is in possession of the title deeds relating to the mortgaged land, the court -having jurisdiction to entertain an action upon the mortgage may, whether or not such action is instituted, if it is satisfied on application made by the mortgagor by petition and affidavit that the mortgagor is likely to be able to effect a sale, mortgage or lease of the land to any other person, make order directing the mortgagee to produce such title deeds and to keep them in the custody of the court during such period as may be specified in the order, for the purpose of enabling them to be inspected and examined by such person.

No security for costs in actions on mortgage.

68. Nothing in Chapter XXVIII of the Civil Procedure Code shall apply in any hypothecary action or in any action to enforce payment of the moneys due upon any mortgage.

PART IV

SPECIAL MORTGAGE OF LAND ACCOMPANIED BY DEPOSIT OF TITLE DEEDS

Creation of mortgage by deposit of deeds and prescribed instrument.

69. The owner of any land may create a mortgage of such land in favour of any approved credit agency by—

(a) the execution of an instrument in the form set out in the Second Schedule to this Act ; and

(b) the deposit with such agency of the title deeds of such land.

Execution and attestation of instrument.

70. (1) The instrument referred to in section 69 may be signed in the presence of, and the execution of such instrument may be attested by, the manager or secretary or any director or other person holding any prescribed office in the agency and at least

(5) The provisions of section 23 of the Registration of Documents Ordinance shall apply in relation to any instrument referred to in section 69 in any case where movable property is also affected thereby.

Special provisions as to payment of stamp duty.

71. (1) In the case of an instrument referred to in section 69, an amount equal to one-fifth of the duty chargeable under Schedule A* to the Stamp Ordinance in the case of a bond or mortgage of a like nature (which duty so chargeable is hereinafter referred to as the "statutory stamp duty") may be paid at the time of execution, and where such amount is paid, the instrument shall be deemed to be duly stamped for the purposes of that Ordinance if proceedings for the recovery of the moneys secured by the instrument are instituted, or the instrument is discharged, during the period of six months commencing on the date of the execution thereof.

(2) In any case where one-fifth of the statutory stamp duty is paid at the time of the execution of any instrument referred to in section 69, the following provisions shall have effect :—

- (a) A further amount equal to one-fifth of the statutory stamp duty may be paid to the Commissioner-General of Inland Revenue before the expiry of the period of six months referred to in subsection (1) or within fourteen days thereafter, and upon such payment being certified by the Commissioner-General of Inland Revenue as hereinafter provided, the instrument shall be deemed to be duly stamped for the purposes of the Stamp Ordinance if proceedings for the recovery of the moneys secured by the instrument are instituted, or the instrument is discharged, during the period of six months immediately succeeding the period referred to in subsection (1) ;
- (b) A further amount equal to two-fifths of the statutory stamp duty may be paid before the expiry of the succeeding period of six months referred to in paragraph (a) of this subsection or within fourteen days thereafter, and upon such payment

being certified by the Commissioner-General of Inland Revenue as hereinafter provided, the instrument shall be deemed to be duly stamped for the purposes of the Stamp Ordinance if proceedings for the recovery of the moneys secured by the instrument are instituted or the instrument is discharged, during the period of one year immediately succeeding the said period of six months ;

- (c) Where proceedings for the recovery of the moneys secured by the instrument are not instituted, or the instrument is not discharged before the expiry of a period of two years from the date of the execution thereof, the instrument shall be deemed for the purposes of the Stamp Ordinance to be an instrument which is not duly stamped unless a further amount equal to one-fifth of the statutory stamp duty is paid before the expiry of the aforesaid period of two years or within fourteen days thereafter, and such payment is certified by the Commissioner-General of Inland Revenue as hereinafter provided ; and where such payment is so made and certified the instrument shall for all purposes be deemed to be duly stamped in like manner as though the statutory stamp duty had been paid at the time of the execution of the instrument ;
- (d) Where, by reason of the fact that payments of duty have not been made as provided in the preceding paragraphs, the instrument is deemed for the purposes of the Stamp Ordinance to be not duly stamped, then, for the purposes of the application of the proviso to section 41 of that Ordinance, the amount of the duty chargeable on such instrument under that Ordinance shall be deemed to be an amount equal to six-fifths of the statutory stamp duty and the amount of the deficiency to be recovered under that proviso shall be determined accordingly.

* See List of Enactments omitted from the Revised Edition.

(3) Where the Commissioner-General of Inland Revenue, or any other officer of his department duly authorized by him in that behalf, is satisfied, upon presentation to him of an instrument, that a payment has been duly made in accordance with any provision of paragraphs (a) to (c) of subsection (2), the Commissioner-General or such officer shall by means of an endorsement under his hand on such instrument certify that such payment has been duly made.

No payment shall be certified by the Commissioner-General or any officer under the preceding provisions of this subsection unless the instrument is presented to him within fourteen days of the date of such payment ;

Provided, however, that the Commissioner-General or such officer may in his discretion certify such payment notwithstanding any delay in the presentation of the instrument, if he is satisfied that the delay was due to inadvertence.

(4) All payments of stamp duty under subsection (2) of this section shall be made by sending to the Commissioner-General the amount of the further duty from time to time to be paid under that subsection,

72. (1) The payments for which provision is made by section 71 may be made by the approved credit agency without prior reference to the person executing the instrument.

(2) The amount of every payment made as provided by section 71 may be added to the amount the payment of which is secured by the instrument, and if so added, shall be recoverable accordingly.

PART V

MORTGAGE OF MOVABLES : SPECIAL PROVISIONS APPLICABLE WHERE MORTGAGEE IS AN APPROVED CREDIT AGENCY

73. (1) Where the holder of any shares—

(a) creates a mortgage of such shares in favour of an approved credit agency by means of an instrument in the form set out in the Third Schedule to this Act, and

(b) deposits with such agency the certificate or certificates issued to him in respect of such shares, and

(c) executes and delivers to such agency an instrument of transfer of such shares in favour of such agency or of any nominee of such agency, or an instrument of transfer in which the name of the transferee is not entered at the time of the execution (hereinafter referred to as a "transfer in blank"),

the provisions hereinafter set out shall apply, that is to say—

(i) if the shares are mortgaged as security for the payment of any moneys stated to be payable on demand, and the mortgagor fails to make payment of the moneys due and payable under the mortgage within one month of the issue to him by the agency of a notice of demand in accordance with the provisions of section 74, or

(ii) if the shares are mortgaged as security for the payment of any moneys stated to be payable on a specified or ascertainable date, and the mortgagor fails to make payment of the moneys due and payable under the mortgage within one month of the issue to him by the agency, after that date, of a notice of demand in accordance with the provisions of section 74,

it shall be lawful for the agency to sell, or as the case may be to cause the nominee to sell, the shares, at their current market value, and where a transfer in blank had been executed, to complete the sale by the insertion in the transfer in blank of the name of the purchaser as the transferee of the shares.

(2) The right of the agency to sell any shares under subsection (1) shall include the right to purchase the shares at the current market value, or where the transfer had been executed in favour of the agency to retain the shares, credit being in either event given to the mortgagor to the extent of the current market value.

Right of mortgagor to make and recover payments of stamp duty.

Right of approved agency to realise shares mortgaged in specified circumstances.

(3) The rights of the agency under the preceding provisions of this section may be exercised in respect of all the shares which are for the *time* being subject to the mortgage under the instrument referred to in subsection (1) (a) or separately in respect of any shares so subject.

Address of mortgagor and issue of notice of demand.

74. (1) Every instrument of mortgage referred to in paragraph (a) of section 73 (1) shall contain the address to which notice of demand of payment may be sent to the mortgagor by the agency :

Provided, however, that upon any change of address the mortgagor may notify the new address to the agency and such new address, if acknowledged in writing by the agency, shall, for the purposes of section 73, be the address to which a notice of demand of payment may be sent.

(2) Every such notice of demand shall be sent by registered post in a letter to the address of the mortgagor as stated in the instrument referred to in paragraph (a) of section 73 (1) or to such new address as may for the time being have been notified and acknowledged as provided in subsection (1) of this section.

Effect of exercise of right of sale, &c.

75. (1) Upon the exercise under section 73 of the right of sale or purchase of any shares and the completion of a transfer in blank by the insertion of the name of the purchaser as transferee of the shares, the transfer as so completed shall have the like effect as though it had been executed by the mortgagor at the time of completion.

(2) Where a transfer (other than in blank) of any shares has been executed by the mortgagor as provided in section 73 in favour of an approved credit agency or a nominee of such agency, the fact that the transfer had been executed by way of mortgage shall not affect the right of the agency or the nominee, during the pendency of the mortgage, to apply to be registered as holder of the shares and to be so registered.

Proceeds of sale or purchase to be applied in satisfaction of debt.

76. Upon the sale or purchase of any shares in exercise of the right conferred by section 73—

- (a) the moneys realized upon such sale or credited as provided in section 73
- (2) shall be applied by the agency in

satisfaction of the debt due and payable under the mortgage, and the mortgagor shall be entitled to receive the balance, if any, remaining after such debt is satisfied ;

- (b) if the moneys realized or credited upon the sale or purchase of all the shares mortgaged by the instrument are insufficient to satisfy such debt, the deficiency may be recovered from the mortgagor in the ordinary course of law.

77. Where a mortgage of shares has been created as provided in section 73, and the mortgage is discharged by payment of the moneys due and payable thereunder, or by reason that the moneys realized upon a sale or purchase of some only of the shares so mortgaged are sufficient to satisfy the debt, or otherwise—

Rights of mortgagor on discharge of mortgage

- (a) the mortgagor shall be entitled, in the case of a transfer . in blank, to receive from the agency the certificate or certificates in respect of such shares or of the shares remaining unsold, as the case may be, together with the transfer in blank in respect thereof ;

- (b) the mortgagor shall be entitled in the case of a transfer otherwise than in blank, to receive from the agency or its nominee at the instance of the agency, a duly executed instrument of retransfer of the share or of the shares remaining unsold, as the case may be.

78. (1) Where any shares mortgaged as provided in section 73 are sold or caused to be sold, or are purchased by the agency, otherwise than in the due exercise of the right conferred in that behalf by that section, the mortgagor shall be entitled to recover from the agency the amount of any loss or damage suffered or incurred by reason of such sale or purchase :

Right to damages, &c., for wrongful sale.

Provided, however, that no such action for any loss or damage shall be maintainable by the mortgagor on the ground that notice of demand under section 74 was not received by him, if it is proved that such notice was sent by registered post in a letter addressed to the mortgagor at the

proper address referred to in the aforesaid section 74, and that the right of sale or purchase was exercised after one month from the date of such posting.

Savings for application of company law, &c., as to transfers and registration,

79. The operation of any other written law or of any regulations or provisions which apply to the transfer of shares, or to the registration of the transferee of any shares as the holder thereof, or which confer any right to decline to effect such registration shall not in any way be affected or modified by reason that a transfer of any such shares is effected in the exercise of the right conferred by section 73.

Meaning of " shares "

80. For the purpose of sections 73 to 79—

" shares " means any shares, debentures, stock or other securities in the funds of the Government of Sri Lanka or in the capital of any company incorporated or registered in Sri Lanka ;

" certificate " means any share certificate or any other document certifying that a person is the holder of any shares as hereinbefore defined.

Rights of approved agency to surrender mortgaged life policy in specified circumstances.

81. Where the holder of a policy of life insurance—

(a) creates a mortgage of the policy" in favour of an approved credit agency by means of an instrument in the form set out in the Third Schedule to this Act, and

(b) assigns the policy to the agency by way of mortgage and deposits it with such agency,

the following provisions shall have effect, that is to say—

(i) if the policy is mortgaged as security for the payment of any moneys stated to be payable on demand, and the mortgagor fails to make payment of the moneys due and payable under the mortgage within six months of the issue of notice of demand of payment in accordance with the provisions of section 82, or

(ii) if the policy is mortgaged as security for the payment of any moneys

stated to be payable on any specified or ascertainable date, and the mortgagor fails to make payment of the moneys due and payable under the mortgage within six months of the issue, after that date, of notice of demand of payment in accordance with the provisions of section 82, or

(iii) if any premium due on the policy remains unpaid after one month from the issue, in accordance with the provisions of section 82, by the agency of a notice demanding payment of such premium to be made to the insurer,

such agency shall be entitled to surrender the policy to the insurer and to receive payment of the surrender value of the policy or of such amount as would have been payable to the assured if the policy had been surrendered by him.

In any case to which this section applies, the payment to the agency by the insurer of the surrender value of the policy or of such other- amount of which the agency is declared by this section to be entitled to receive payment shall be a discharge of the liability of the insurer upon the policy.

82. (1) Every instrument of mortgage referred to in paragraph (a) of section 81 shall contain the address to which notice of demand of payment may be sent to the mortgagor by the agency :

Address of mortgagor and issue of notice of demand.

Provided, however, that upon any change of address the mortgagor may notify the new address to the agency which shall thereupon acknowledge the new address in writing ; and such new address, if so acknowledged, shall, for the purposes of section 81, be the address to which a notice of demand of payment may be sent.

(2) Every such notice of demand shall be sent by registered post in a letter to the address of the mortgagor as stated in the instrument referred to in paragraph (a) of section 81 or to such new address as may for the time being have been notified and acknowledged as provided in subsection (1) of this section.

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Moneys received upon surrender to be applied in satisfaction of debt.

83. Where any policy of insurance is surrendered in the exercise of the right conferred by section 81—

- (a) the moneys received by the agency from the insurer shall be applied in satisfaction of the debt due and payable under the mortgage ;
- (b) the mortgagor shall be entitled to payment from the agency of the balance, if any, remaining after satisfaction of such debt;
- (c) if the moneys so received are insufficient to satisfy such debt, the agency shall be entitled to recover the deficiency in the ordinary course of law.

Right to damages, &c, for wrongful surrender.

84. If the policy is surrendered by the agency otherwise than in the due exercise of the right conferred by section 81, the mortgagor shall be entitled to recover from the agency the amount of any loss or damage suffered or incurred by him in consequence of such surrender :

Provided, however, that no such action for any loss or damage shall be maintainable by the mortgagor on the ground that notice of demand under section 82 was not received by him, if it is proved that such notice was sent by registered post in a letter addressed to the mortgagor at the proper address referred to in the aforesaid section 82, and that the right of surrender was exercised after the period of six months or the period of one month of the date of such posting, whichever such period is applicable.

Power of approved credit agency to sell corporeal movables which are subject to mortgage.

85. (1) Where a mortgage of any corporeal movables is created in favour of an approved credit agency, it shall be lawful for the agency, subject to the provisions of subsections (2) and (3), to sell any of the movables subject to the mortgage which may for the time being be actually in the possession and custody of the agency.

(2) The power conferred on the agency by subsection (1) to sell any movables shall be exercised only if the instrument of mortgage or an agreement between the parties contains provision referring to this section and empowering the agency to exercise the power of sale conferred thereby, and if

either of the following conditions is fulfilled, that is to say—

- (a) where the mortgage is created as security for the payment of any moneys stated to be payable on demand, if the mortgagor fails to make payment of the moneys due and payable under the mortgage within one month of the issue to him by the agency of a notice of demand in accordance with the provisions of section 86 ; or
- (b) where the mortgage is created as security for the payment of any moneys stated to be payable on a specified or ascertainable date, if the mortgagor fails to make payment of the moneys due and payable under the mortgage within one month of the issue to him by the agency, after that date, of a notice of demand in accordance with the provisions of section 86.

(3) Every sale in exercise of the power conferred by subsection (1) shall be by public auction, and it shall be the duty of the agency to take such steps as are necessary to ensure—

- (a) that a notice containing a description of the movables to be sold and specifying the date fixed for the sale, is published in two issues of a daily newspaper circulating in Sri Lanka at least one week before the date fixed for the sale, and
- (b) that the sale takes place on the date so specified, or if the sale is postponed, that a further notice containing the particulars specified in subparagraph (a) is published at least one week before the date to which the sale is postponed. .

86. (1) The power of sale conferred by section 85 shall not be exercised unless the instrument of mortgage contains an address to which notice of demand of payment may be sent to the mortgagor by the agency ; or where there is no such instrument unless the mortgagor has in writing signed by him furnished an address as aforesaid to the mortgagee :

Notice of demand of payment prior to exercise of power of sale.

Provided, however, that upon any change of address, the mortgagor may notify his new address to the agency, and such new address, if acknowledged in writing by the agency, shall for the purposes of section 85 be the address to which a notice of demand of payment may be sent.

(2) Every such notice of demand of payment shall be sent by registered post in a letter to the address of the mortgagor as stated in the instrument of mortgage or the writing referred to in subsection (1), or to such new address as may, for the time being, have been notified and acknowledged as provided by that subsection.

Application of proceeds of sale-

87. Upon a sale of any movables in the exercise of the right conferred by section 85-

- (a) the moneys realized upon such sale shall be applied by the agency in satisfaction of the debt due and payable under the mortgage, and the mortgagor shall be entitled to receive the balance, if any, remaining after such debt is satisfied ;
- (b) if the moneys realized upon the sale are insufficient to satisfy such debt, the deficiency may be recovered from the mortgagor in the ordinary course of law.

Damages for wrongful sale of mortgaged property.

88. Where any movables are caused to be sold by the agency otherwise than in the due exercise of the powers conferred in that behalf by section 85 or where the provisions of subsection (3) of that section are not complied with in relation to the sale, the mortgagor shall be entitled to recover from the agency the amount of any loss or damage suffered or incurred by reason of the sale or of the non-compliance, as the case may be ;

Provided, however, that no action for any loss or damage shall be maintainable by the mortgagor on the ground that notice of demand of payment was not received by him, if it is proved that such notice was sent by registered post in a letter addressed to the mortgagor at the proper address referred to in section 86, and that the power of sale was exercised after one month from the date of such posting.

89. In sections 90 to 95 " book debt " means any debt which—

Meaning of " book debt

- (a) is due or may become due to any person on account of any loan made in the ordinary course of any business carried on by that person as a money-lender, or on account of goods sold in the ordinary course of any business carried on by that person as a seller of such goods, or on account of work or services performed or rendered in the ordinary course of any business carried on for profit by that person, and
- (b) is shown in the books kept by such person in the ordinary course of the business.

90. (1) An assignment of any book debt shall, if such assignment is executed in favour of an approved credit agency and is expressed to be by way of mortgage and is duly registered under the Registration of Documents Ordinance, confer on the agency, in addition to the right to enforce such mortgage by action in any competent court, the right to demand, accept and recover payment of such debt from the person owing such debt to the assignor :

Rights of approved credit agency to which book debts are assigned by way of mortgage.

Provided, however, that no right hereinbefore conferred on the agency shall be exercisable—

- (a) unless notice of the assignment is given by the agency, to the person owing such debt, in any manner provided by section 91, and the debt is due and unpaid at the date on which notice is so given ;
- (b)• if the right to demand, accept or receive such payment is, by the instrument of the mortgage, declared to be conditional upon the happening of any event or the non-fulfilment of any obligation by the assignor, unless such event has happened or such obligation has not been fulfilled within the time specified in that behalf in the instrument, as the case may be.

(2) The provisions of subsection (1) shall apply in relation to a book debt notwithstanding—

- (a) that it may not be specially assigned ; or
- (b) that it may not have been due, or that the consideration therefor may not have passed, at the time of the execution of the assignment.

Manner of giving notice of assignment to person owing book debt.

91. (1) Notice of the assignment of a book debt may be given by the agency to a person owing such debt in any manner set out hereunder, that is to say—

- (a) by sending or presenting to the person owing such debt a notice addressed to such person and signed by the assignor to the effect that the debt has been assigned to the assignee ; or
- (b) by sending or presenting to such person (i) a general notice signed by the assignor to the effect that all book debts which are due or may become due have been assigned to the assignee, or (ii) a copy of such notice certified by a director, manager, partner or secretary of the agency.

(2) Any notice referred to in paragraph (a) or paragraph (b) of subsection (1) may be signed by the assignor at the time of the execution of the assignment or at any time thereafter, and may be sent or presented to the person owing the debt at any time while the assignment is operative.

Application of moneys received in payment of mortgage debt.

92. Where payment of a book debt is made to the agency upon demand made in that behalf of the person owing such debt, the amount of the payment shall be applied in satisfaction of the moneys for the time being due and payable to the agency under the mortgage, and the balance, if any, remaining out of such proceeds shall be payable to the assignor.

Damages for wrongful exercise of power to recover book debt.

93. Where any book debt is recovered by the agency otherwise than in the due exercise of the powers conferred by section 90, the assignor shall be entitled to recover from the agency the amount of any loss or damage suffered or incurred by reason of such recovery.

94. (1) Notwithstanding the execution of any assignment referred to in section 90, but subject as hereinafter provided, the assignor shall, unless and until notice of the assignment is given to the person owing the debt, have the same right to recover such debt from such person whether by way of action or otherwise, and to appropriate to his own use any moneys so recovered, as though the assignment had not been executed :

Provision for recovery of book debt by assignor notwithstanding assignment.

Provided, however, that the agency shall be entitled, upon making application to any court in which an action for the enforcement of the assignment can properly be instituted, by petition supported by an affidavit declaring that moneys are due and payable to him under the mortgage, to obtain *ex parte* an injunction restraining the assignor from recovering any such debt, and if need be an order authorizing the Fiscal—

- (a) to enter the premises in which the assignor carries on his business, together with a person nominated in that behalf by the assignee and approved by the court;
- (b) to take possession of any such books kept or found therein as may contain entries relating to the book debts which are subject to the assignment ; and
- (c) to deliver such books to the assignee for the purpose of enabling him to recover such debts from the persons by whom they are owing,

and where an injunction is so issued nothing in the preceding provisions of this section shall authorize or be deemed to authorize the assignor to recover or sue for any debt in breach of such injunction.

(2) Where an injunction has been issued under subsection (1) or any order relating to the books has been made under that subsection, the court may thereafter upon application made by the assignor and after such inquiry as it may consider necessary, make such order in relation to the injunction and to the books as the court may think fit.

95. Notwithstanding the execution of any assignment referred to in section 90, the assignee shall not be entitled to demand or recover payment of any book debt which is

Protection for debtor paying without notice of assignment.

subject to the assignment from the person owing such debt if such debt had been paid by such person to the assignor before notice under section 91 is received by him.

the appointment of a receiver upon application duly made in that behalf in any case to which section 96 applies.

PART VI

MORTGAGE OF MOVABLES : GENERAL

APPOINTMENT OF RECEIVER

96. (1) Where a mortgage is created in respect of the entirety of the goods which are, or may at any future time be, in any specified premises, or of the goods which constitute or may at any future time constitute the entire stock in trade in any specified premises, and an action is instituted by the mortgagee for the enforcement of the mortgage or the recovery of the moneys due thereunder, the mortgagee may, at or after the time of the institution of the action, make application to the court by petition for the appointment of a receiver of the mortgaged property.

(2) Such application shall be supported by affidavit of the mortgagee stating the sum lent to the mortgagor, the sum, if any, repaid out of the loan, and the sums due to the mortgagee by way of principal and interest.

(3) Subject as hereinafter provided, the application for the appointment of a receiver shall, unless the mortgagee otherwise desires, be dealt with *ex parte* by the court :

Provided, however, that where the application is made at any time after the filing of an answer by the mortgagor, the application shall be dealt with after notice to the mortgagor.

97. The court may refuse to make an order for the appointment of a receiver under section 96, if having regard to the value and nature of the business the stock in trade of which is the subject of the mortgage, or the nature and value of the goods, as the case may be, and to the amount which in the circumstances of the case can reasonably be allowed as the remuneration of the receiver, the court is of opinion that a suitable person is not available for such appointment.

Save as hereinbefore expressly provided, the court shall not refuse to make order for

98. (1) Every order for the appointment of a receiver in any case to which section 96 applies shall—

Directions in order of appointment, &c.

(a) provide for the committal of the mortgaged property and if need be of the business carried on by the mortgagor at the specified premises to the custody and the management of the receiver ;

(b) contain such directions as the court may in its discretion consider necessary authorizing the receiver to carry on the business of the mortgagor at the premises, to sell all or any of the mortgaged property whether by public auction or otherwise, and to exercise in respect of the mortgaged property such other rights as may be specified in the order.

(2) The court may, by subsequent order, on application made by the receiver, the mortgagor or the mortgagee—

(a) give any directions which might have been given in an order under subsection (1), or vary any directions previously given whether under that subsection or under the preceding provisions of this subsection ;

(b) authorize the receiver to institute or defend any action or proceedings in respect of any matter affecting the mortgaged property or the management and administration of the business or the recovery of any moneys due upon the sale of the mortgaged property.

(3) The person appointed to be the receiver of the mortgaged property shall, for the purposes of the exercise of the rights conferred on him by any directions given under the preceding provisions of this section, have and be entitled to exercise all the rights and powers of the owner of the mortgaged property.

(4) Where the receiver is obstructed in taking possession of the mortgaged

Application for appointment of receiver where entire stock in trade, &c., is mortgaged.

Refusal to appoint receiver.

property, the court may after inquiry make such orders as may be necessary for the purpose of securing that delivery of possession is given to the receiver.

Duties and liabilities of receiver.

99. Every receiver appointed in any case to which section 96 applies shall—

- (o) render accounts to court in such form , and at such times as the court may direct in that behalf ;
- (b) make payment to court to the credit of the action, from time to time as the court may direct, of the nett receipts received by him in his capacity as such-;
- (c) be responsible for any damage to the mortgaged property, or for the loss of any income, incurred by his gross negligence or by any intentional act on his part.

Moneys to be kept in court.

100. (1) All moneys paid into court by the receiver under section 99, shall, unless the court otherwise directs, be kept in court to the credit of the action until the final disposal of the action :

Provided that payment may from time to time be made out of such moneys of the remuneration due to the receiver.

(2) The amount of the moneys in court to the credit of the action at the date of the decree entered in the action shall be applied in satisfaction of the amount stated in the decree to be due upon the mortgage.

(3) No seizure of such moneys in execution of any order or decree in any other action (other than an action for the enforcement of a mortgage having priority to the mortgage in suit in the action referred to in section 96) shall affect the operation of subsection (2) of this section.

Restriction of appeals against appointment, &c., of receiver.

101. No appeal shall lie against the refusal of the court to make any order for the appointment of a receiver upon application under section 96 or against any order or directions made or given under any of the provisions of sections 97 to 100, other than the provisions of subsection (4) of section 98.

MORTGAGE OF MOTOR VEHICLES

102. (1) Where any motor vehicle is mortgaged to any person—

Special registration of mortgage of motor vehicle.

(a) the instrument of mortgage shall , on presentation to the Registrar of Motor Vehicles, be registered by means of an entry made in the Register of Motor Vehicles kept under the Motor Traffic Act ;

(b) the certificate of registration issued under that Act to the registered owner of the motor vehicle may be presented to the Registrar of Motor Vehicles, who shall, on such presentation, make an endorsement on the certificate to the effect that the motor vehicle has been mortgaged by the instrument of mortgage.

(2) Application for registration under subsection (1) shall be made by the mortgagor and shall be accompanied by a fee of one rupee.

(3) The Registrar shall, on application made in that behalf by any person interested and on payment of a fee of one rupee, issue a certified copy of any entry made under subsection (1).

(4) In this section and in sections 103 and 104, " motor vehicle " has the same meaning as in the Motor Traffic Act.

103. Where the instrument of mortgage of any motor vehicle has been registered under section 102, the following provisions shall apply :—

Registered mortgage of motor vehicle to subsist notwithstanding sales, &c"to thlrd party

(a) Notwithstanding anything in any other law, any sale or other disposition of the motor vehicle 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 motor vehicle, which shall remain subject to the mortgage in the hands of the transferee or other person in whose favour such disposition is effected ;

(b) Upon the issue by the Registrar under the Motor Traffic Act of any new certificate of registration to any person registered as the new owner

or of a duplicate certificate, the Registrar shall make an endorsement on the certificate to the effect that the motor vehicle has been mortgaged by the instrument referred to in paragraph (a) of section 102 (1).

(3) Where the seizure of the movable property is released after the making of an order under subsection (1) (c) for the sale thereof, the order under that subsection shall be annulled and no further proceedings shall be taken thereon.

Cancellation of registration of mortgage of motor vehicle.

104. The registration by the Registrar of an instrument of mortgage of a motor vehicle and any endorsement made upon the certificate of registration under section 102 or under section 103 to the effect that the motor vehicle is mortgaged, shall be cancelled by the Registrar at the request of the mortgagee or upon an order being made by a District Court directing such cancellation upon application made to it in that behalf by petition and affidavit.

(4) Where the mortgagee is added under subsection (1) as a party to the action and the movable property is or has been sold, whether under the seizure or under an order made under subsection (1) (c), and it is proved to the satisfaction of the court (after trial of such relevant issues as may be framed) that the movable property was at the date of such addition subject to the mortgage and either (i) that any sum was due and payable under the mortgage at that date or on demand, or (ii) that any sum, the amount of which is ascertainable, is certain to fall due for payment under the mortgage upon the effluxion of time without the happening of any future event or the future fulfilment of any condition—

RIGHTS OF MORTGAGEE OF MOVABLES IN SPECIFIED CIRCUMSTANCES

Rights of mortgagee of movables seized by other creditor.

105. (1) Where any movable property whatsoever which is subject to a mortgage is seized in execution of a decree in favour of any person other than the mortgagee—

- (a) the court shall order that payment shall be made to the mortgagee, out of the proceeds of the sale of the property, of the sum so proved ;
- (b) the balance, if any, remaining out of such proceeds shall be deemed to be the proceeds of a sale held under the seizure and be available for distribution accordingly ;
- (c) if the proceeds of the sale are insufficient to satisfy the sum so proved, the payment of such proceeds to the mortgagee shall not prejudice his right to recover any amount outstanding by subsequent action against the mortgagor, but in any such action every determination of the court under the preceding provisions of this subsection shall be *res adjudicata* as between all persons who were parties to the proceedings under this section.

- (a) the claim of the mortgagee shall not be investigated or dealt with as provided in sections 241 to 247 of the Civil Procedure Code ;
- (b) the mortgagee shall be entitled to make application to be added as a party to the proceedings in which the seizure was effected ;
- (c) where the mortgagee is so added before the sale under the seizure, and makes application in that behalf supported by affidavit declaring that the property is subject to a mortgage in his favour, the court shall order that the sale under the seizure be stayed and that the property be sold by public auction by an auctioneer to be appointed under subsection (2).

(2) Notice of an order under subsection (1) (c) shall be given to the parties to the action, and the court shall after such inquiry as may be necessary appoint an auctioneer to conduct the sale and give directions as to the time and manner of such sale.

106. (1) Where any movable property whatsoever is subject to a mortgage, and the mortgagor is adjudicated insolvent, the mortgagee shall, upon making an application in that behalf by petition and affidavit in the proceedings upon such insolvency, be entitled to obtain in those proceedings an order directing that the

Rights of mortgagee of movables upon insolvency of mortgagor.

property be sold by public auction by an auctioneer approved by the court in accordance with such directions as may be issued by the court in that behalf.

The court may, if it thinks fit, before approving the auctioneer or giving such directions, issue notice to the assignee of the estate of the insolvent.

(2) Where any property is sold upon application made under subsection (1), and it is proved to the satisfaction of the court, after trial of such relevant issues as may be framed, that the movable property was at the date of the application subject to the mortgage and either (i) that any sum was due and payable under the mortgage on that date or (ii) that any sum, the amount of which is ascertainable, is certain to fall due for payment under the mortgage upon the effluxion of time without the happening of any future event or the future fulfilment of any condition—

- (a) the court shall order that payment shall be made to the mortgagee, out of the proceeds of sale of the property, of the sum so proved ;
- (b) the balance, if any, remaining out of such proceeds shall be kept in court to the credit of the assignee ;
- (c) if the proceeds of sale are insufficient to satisfy the sum so proved, the payment of such proceeds to the mortgagee shall not prejudice his right to prove his claim in respect of the deficiency in the proceedings upon insolvency.

DECREE AND SALE OF MOVABLES IN HYPOTHECARY ACTION

Order for sale and directions.

107. Where in a hypothecary action in respect of any movable property the court finds that the mortgage ought to be enforced, the decree shall, in relation to the mortgaged movables, order that the movables shall be sold in default of payment within such period as may be specified by the court not exceeding one month from the date of the decree, of the moneys due under the mortgage :

Provided, however, that the court may, in its discretion and subject to such conditions, including the making of specified payments on specified dates as it thinks fit, on application made in that behalf before the entry of the decree, fix such longer period than one month as the court may consider reasonable.

108. Subject as hereinafter provided the mortgaged movables shall be seized and sold by the Fiscal under Chapter XXII of the Civil Procedure Code and all the provisions of that Code relating to the seizure and sale and delivery to the purchaser of movable property seized in execution of a decree for the payment of money shall apply accordingly :

Manner of sale of mortgaged

Provided, however, that the court may, in its discretion if it thinks fit so to do, either in the decree or subsequently, direct that the property shall be sold by the Fiscal or by an auctioneer approved by the court, without being previously seized, and shall in such case in the decree or subsequently give directions as to the conduct and conditions of sale to the delivery of possession to the purchaser at such sale, and as respects such other matters as the court may find necessary.

109. The provisions of sections 96 to 106 shall not apply to any mortgage created before the appointed date.

Application of this part-

PART VII

MISCELLANEOUS

RIGHTS OF LANDLORD IN RELATION TO GOODS UPON PREMISES OF WHICH RENT IS IN ARREAR

110. (1) A plaintiff in an action for the recovery of the rent due from a tenant in respect of any premises shall be entitled, upon satisfying the court that rent is due from the tenant and has been in arrear for one month after it has become due, to obtain from the court, *ex parte* an injunction restraining the tenant from removing any goods from the premises or causing or permitting the removal therefrom of any goods, at any time while any rent remains due and unpaid, unless authority has been granted in that behalf under subsection (3).

Injunction to restrain removal of goods from premises the rent of which is in arrear

(2) Every application for an injunction under subsection (1) shall be made in the manner provided by section 662 of the Civil Procedure Code and all the provisions of Chapter XLVIII of that Code, other than section 664, shall apply accordingly.

(3) When an injunction has been issued under subsection (1) in respect of the goods upon any premises and is for the time being in force, the court may upon application made by petition supported by affidavit, and after notice to the plaintiff and such inquiry as the court may deem necessary, by order authorize the removal of any goods from the premises if satisfied—

- (a) that such goods are owned by any person other than the tenant or a member of his family ; or
- (b) that such goods are not household goods and are owned by a member of the family of the tenant.

(4) Where an injunction has been issued under subsection (1) in respect of the goods upon any premises and is for the time being in force, any person who knowing or having reason to believe that it is unlawful for the tenant to remove or cause or permit the removal of the goods from the premises, removes or assists in the removal from the premises of any goods the removal of which is not authorized by order under subsection (3), may be punished as for a contempt of court in like manner as a tenant in case of disobedience.

(2) No action for damages shall lie by reason of the seizure, in execution of any decree in an action for rent due in respect of any premises, of any goods for the time being upon the premises, on the ground only that they do not belong to the tenant or to a member of his family as hereinafter defined.

112. A landlord of any premises shall not, by reason of the non-payment of rent of such premises, have any right in respect of the goods which are or may have been upon the premises, other than the right conferred by section 110 and the right to seize goods which are declared by section 111 to be liable to such seizure, or which, being goods belonging to the tenant, are liable to seizure under the Civil Procedure Code.

Rights of landlord in relation to goods on premises.

113. In sections 110 to 112, " member of the family ", in relation to a tenant, means the wife or any child of the tenant residing with him, and includes any relative or other person dependent upon the tenant and residing with him.

APPROVAL OF CREDIT AGENCIES, &C.

114. (1) Every application for a declaration of any company, firm, institution or individual as an approved credit agency under paragraph (c) of section 3 shall be made to the Director of Commerce.

Approval of credit agencies, &c.

Every such application shall be referred to a board consisting of a chairman and two other persons nominated by the Minister.

(2) The Director shall, if the board so recommends upon any application, by Notification published in the Gazette, declare the applicant to be an approved credit agency for the purposes of this Act.

(3) The decision of the board upon any such application shall be final.

(4) Where any company, firm, institution or individual has been declared under paragraph (c) of section 3 to be an approved credit agency, the board of its own motion or on representations made by the Director of Commerce may recommend to the Director that the declaration made under

Liability of goods to seizure under decree for rent.

111. (1) Subject to the proviso to section 218 of the Civil Procedure Code, all goods belonging to a tenant and all household goods belonging to any member of his family as hereinafter defined and for the time being upon any premises shall be liable to be seized in execution of a decree in an action against the tenant for rent due in respect of the premises, and where such goods are so seized and sold, the payment of the amount of the decree shall be a first charge on the proceeds of sale in preference to any other charge or interest whatsoever other than a charge in favour of the State or of any local authority.

that paragraph should be revoked with effect from a date specified by the board. The decision of the board in any such case shall be final, and upon such recommendation being made the Director shall by notification in the Gazette revoke the declaration with effect from the date so specified :

Provided, however, that the revocation shall not in any way affect the validity or the operation of any instrument duly executed in favour of such agency under any provision of this Act or of any other written law prior to the date on which the revocation takes effect, or affect the power of such agency to exercise after that date any right which may be exercised under any such written law by virtue of the instrument so executed before that date.

(5) The members of the board may be paid such remuneration (not exceeding fifty rupees for each sitting) as may be fixed by the Minister, out of moneys voted for the purpose by Parliament.

(6) The members of the board shall hold office for such period as may be specified by the Minister at the time of appointment ; but any such appointment may be revoked by the Minister at any time.

(7) Nothing in Part IV or Part V of this Act shall be deemed or construed to authorize any institution mentioned in paragraph (6) of section 3 to make loans upon the security of any property, if the power to make loans on such security is not conferred on such institution by the written law providing for the establishment, powers and functions of such institution.

RULES

115. (1) The Minister in charge of the Rules. subject of Justice may make rules—

- (a) providing for the amendment of any of the forms set out in any of the Schedules to this Act or the substitution for any such form of any new form ;
- (b) authorizing the inclusion in any instrument executed under section 69 of any covenants and agreements on the part of the person creating the mortgage or of the agency in whose favour the mortgage is created ;
- (c) declaring the offices which shall be prescribed offices for the purposes of section 70.

(2) Every rule made under subsection (1) shall be submitted to Parliament for approval. Every rule so approved shall be published in the Gazette, and shall come into force upon such publication.

SAVINGS FOR APPOINTMENT OF RECEIVERS UNDER CIVIL PROCEDURE CODE

116. The powers conferred by this Act for the appointment of receivers of mortgaged property shall be in addition to and not in substitution or derogation of the power to appoint receivers which is conferred by Chapter L of the Civil Procedure Code :

Savings for appointment of receivers under Civil Procedure Code.

Provided that nothing in that Chapter shall apply in any case where application is duly made under this Act for the appointment of a receiver.

FIRST SCHEDULE

Form I

APPLICATION FOR REGISTRATION OF ADDRESS FOR SERVICE OF LEGAL DOCUMENTS

To the Registrar of Lands of.....

I (name in full and address) apply under section 6 of the Mortgage Act for registration in or in continuation of the folio (or folios) specified in B below of the address specified in A below as the address for service on me of legal documents in any hypothecary action to enforce any mortgage registered in the folio or folios specified in B below. Particulars of the instrument under which I derive title are given in C below.

A

Address/or for Service

(Name of person to whom legal documents are to be sent. This person may be the applicant or another person.)

(Full postal address in Sri Lanka.)

e.g., H. John Perera,
No. 18, Maliban Street,
Pettah, Colombo.

[section 6]

Folio (or folios) in which the Address is lobe registered

Volume :
Folio :
Volume :
Folio ;

C

Particulars of Instrument under which Applicant derives Title

- (1) Number and date of deed :
(2) Name of attesting notary :
(3) Volume and folio where the deed is registered :

2. I further declare that my address for service previously registered with you on in volume folio is hereby cancelled.

.1- The registration fee of Rs. is enclosed in stamps.

(Signature of applicant or agent.)*

* Agent means an agent authorized in writing by the applicant or attorney-at-law or notary public.

[Sections 9 and

Form 2

10]

NOTICE OF HYPOTHECARY ACTION

In the District Court of

Action No.Plaintiff/s.
vs.
.....-Defendant/s.

*Nameofcach T O * of (registered address).
person to

whom notice is Notice is hereby issued to you in terms of section 9(1)/9(2) of the Mortgage Act of the above action instituted
issued, upon a mortgage of the land/s described in the Schedule hereto.

Registrar.

Schedule

(Description of Land/s.)

[Section 34.]

Form.3

NOTICE

In the District Court of.....

Action No.Plaintiff/s.
vs.
.....Defendant/s.

Notice is hereby given -

(a) that the plaintiff in the above action has made application under section 34 of the Mortgage Act for a declaration that in the event of decree being entered for the sale of the land described in the Schedule hereto, the court will order the removal of all persons whomsoever who may resist the delivery of possession of the land to the purchaser at the sale ;

MORTGAGE

(h) that any person claiming to be entitled to possession of the land or any portion thereof shall be entitled to make application within two months to this court under section 35 of the Act to be added as a party to the above action and to secure an adjudication upon his claim ;

(-c-) that a plan of the land has been filed of record in (his court) and is available for inspection by any person interested.

.....
Registrar.

Schedule

(Description of land.)

[section 53]

Form 4

CONVEYANCE

(Title.)

To all to whom these presents shall come, greeting.

Whereas by a mortgage bond dated....., and bearing number and attested bynotary public, and registered in the..... District I .and Registry at foliothe payment toof the sum ofrupees was secured with interest by mortgage of the property hereinafter described and hereby conveyed :

And whereas by a decree entered in action No.of the District Court of on the day of it was ordered and decreed that the defendant in the said action do pay to the plaintiff in the said action forthwith the sum ofrupees (Rs. being the aggregate amount of the principal, interest, and costs due in respect of the said mortgage bond. together with interest thereon at the rate of per centum per annum from the date of the said decree until payment : and that in default of payment of the said sum. interest, and costs within (stale period) from the date of the said decree the said property be sold :

And whereas an order for the sale of the said premises was subsequently given by the court to the Fiscal/* -under section 50 of the Mortgage Act :

And whereas after due notice and publication in manner by law prescribed the said property was exposed to public sale on theday of 19..... by acting under the authority of the said Fiscal/* and was sold to as the highest bidder at the said sale for the sum ofrupees ;

And whereas the said (purchaser) has duly paid the whole of the said purchase money and thus became entitled to a conveyance of the said property (or, where the plaintiff is purchaser) and whereas the said (purchaser) has been allowed the amount of the purchase money (or as the case may be) in reduction of his claim, and has produced the order of court, copy whereof is hereunto annexed, and has thus become entitled, &c. :

And whereas the said court by an order dated theday of 19 .copy of which is hereunto annexed, has duly confirmed the said sale :

Now these presents witness that the said Fiscal/* in consideration of the said sum of rupees so paid by (or credited to) the said (purchaser) as aforesaid, the receipt whereof the said Fiscal/* doth hereby acknowledge, hath sold and assigned, and by these presents doth sell and assign unto the said (purchaser), his heirs, executors, administrators, and assigns, the property described in the Schedule hereto. To have and to hold the same with their and every of their appurtenances to him, the said (purchaser), his heirs, executors. administrators, and assigns for ever.

In witness whereof the said Fiscal/* -hath hereunto subscribed his name at thisday of 19.

(Signature).....

Witnesses :

Schedule

(To contain a description of the property conveyed.)

*Strike out what is inapplicable.

[section 55]

Form 5

In the District Court of.....

No.....

Whereas the land known as situated at-and more fully described in the Schedule hereto was, under the decree in the above action, sold toof hereinafter referred to as "the purchaser" and whereas it has been reported to this court that the Fiscal was obstructed in attempting to put the purchaser or some other person on his behalf in possession of such land in terms of the order made under this action and dated theday of

MORTGAGE

Now, therefore, this is to direct ALL PERSONS WHOMSOEVER forthwith to yield up possession thereof, without obstruction or resistance, to the purchaser or such other person upon pain of suffering the penalties prescribed in that behalf in section 55 of the Mortgage Act.

By Order of the Court,

Registrar.

Schedule
(Description of Land.)

**SECOND SCHEDULE
Form 6**

[Section 69.] I/ We* of -do hereby, in terms of section of the Mortgage Act, mortgage the land described in the First Schedule hereto to of an approved credit agency as defined in that Act, as security for the payment of all sums due and owing or which may be or become due and owing from me/us* to the said agency/on* account of the matters and transactions mentioned/(or)/* under the instrument entered into this day and referred to/in the Second Schedule hereto.

And I/We' hereby declare that the title deeds of the land aforesaid have been deposited with the agency in terms of the said section.

(Signature)

+(Where not notanally executed.) *Signed by the aforesaid of.....in the presence of .(Manager/fDirector/+Prescribed Officer) and of (1).....and (2)(witnesses).

(Signatures)

Firsi Schedule
(Description of Land.)

Second Schedule
(Matters or transactions referred to/(or)/instrument referred to.)
* Delete if inapplicable-

**THIRD SCHEDULE
Form?**

[Section 73.] I/We*, of do hereby mortgage the shares described in the First Schedule hereto to of an approved credit agency within the meaning of the Mortgage Act as security for the payment of all sums due and owing from me/ us* to the said agency/on* account of the matters and transactions mentioned/(or)* under the instrument entered into this day and referred to/in the Second Schedule hereto.

And I/We* hereby declare that the share certificates relating to the said shares have been deposited with the said agency and that I/We* have executed a transfer/transfer in blank* of the said shares and delivered such transfer to the said agency.

(Signature)

Signed by the said of in the presence of (I) and (2)(witnesses).

(Signature)

First Schedule
(Description of shares.)

Second Schedule
(Matters or transactions referred to/(or)/instrument referred to.)
*Delete if inapplicable.

[Section 81.]

Form 8

I/We* of hereby mortgage my/our* rights under the policy of life insurance mentioned in the First Schedule hereto to of an approved credit agency within the meaning of the Mortgage Act as security for the payment of all sums due and owing or which may be or become due and owing from me/us* to the agency/on* account of the matters and transactions/(or)/*under the instrument entered into this day and referred to/in the Second Schedule hereto.

And I/We* hereby declare that the policy has been assigned to the said agency by way of mortgage and has been deposited with the agency.

(Signature)

Signed by the said.....of..... in the presence of (1).....and (2)(witnesses.)

First Schedule
(Particulars of Policy.)

Second Schedule
(Matters or transactions referred to/ (or)/instrument referred to.)
* Delete if inapplicable.

CHAPTER 100

MAINTENANCE

Ordinances AN ORDINANCE TO AMEND THE LAW RELATING TO THE MAINTENANCE OF WIVES AND CHILDREN.
 Nos.19 of 1889,
 13 of 1925,
Acts
 Nos.19 of 1972,
 2 of 1978.

[31st December. 1889.]

Short title. **1.** This Ordinance may be eked as the Maintenance Ordinance.

Order for maintenance of wife or of legitimate or illegitimate child.

[§ 2,19 of 1972.]

[§ 2, 19 of 1972.]

Where wife refuses to live with her husband.

Where wife is living in adultery or apart from her husband without sufficient reason or by mutual consent.

2.* If any person having sufficient means neglects or refuses to maintain his wife, or his legitimate or illegitimate child unable to maintain itself, the Judge of the Family Court* may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, as the Judge of the Family Court* thinks fit, having regard to the income of the defendant and the means and circumstances of the applicant or such child, and to pay the same to such person as the Judge of the Family Court* may from time to time direct. Such allowance shall .be payable from the date on which the application for maintenance is made.

3. If such person offers to maintain his wife on condition of her living with him, the Judge of the Family Court* may consider any grounds of refusal stated by her, and may make an order under section 2, notwithstanding such offer, if the Judge of the Family Court* is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

4. No wife shall be entitled to receive an allowance from her husband under section 2 if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

5. On proof that any wife in whose favour an order has been made under section 2 is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Judge of the Family Court* shall cancel the order.

6. In the case of an application for an order under section 2 in respect of an illegitimate child, such application shall not be entertained unless made within twelve months from the birth of such child, or unless it be proved that the man alleged to be the father of such child has at any time within twelve months next after the birth of such child maintained it or paid money for its maintenance, or unless such application is made within the twelve months next after the return to Sri Lanka of the man alleged to be the father of such child, and upon proof that he ceased to reside in Sri Lanka within the twelve months next after the birth of such child, and no order shall be made on any such application as aforesaid on the evidence of the mother of such child unless corroborated in some material particular by other evidence to the satisfaction of the Judge of the Family Court*.

7. No order for an allowance for the maintenance of any child, legitimate or illegitimate, made in pursuance of this Ordinance shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of twenty-one years, or after the death of such child.

Circumstances warranting cancellation of order under section 2.

Period within which application for maintenance of illegitimate child should be made.

Evidence of mother to be corroborated.

Time of cessation of order.

[§ 3,19 of 1972-]

* The Jurisdiction of the Family Court in maintenance matters has since been removed from such court by the Judicature (Amendment) Act, No. 71 of 1981, and vested in the Magistrate's Court.

Enforcement of orders of maintenance. [§4, 19 of 1972.]

8. (1) Subject as otherwise provided in section 8A, where any person against whom an order is made under section 2 (hereinafter called the "defendant") neglects to comply with the order, the Judge of the Family Court* may for every breach of the order sentence such defendant for the whole or any part of each month's allowance in default, to simple or rigorous imprisonment for a term which may extend to one month.

(2) The Judge of the Family Court* may, if an application is made in that behalf by any person entitled to receive any payment under an order of maintenance, before passing a sentence of imprisonment, issue a warrant directing the amount in default to be levied in the manner by law provided for levying fines imposed by Magistrates in the Magistrates' Courts.

Attachment of salary of defendant. [§5, 19 of 1972.]

8A. (1) If, on the application of a person entitled to receive any payment under an order of maintenance, it appears to the Judge of the Family Court* that the defendant has defaulted in the payment of maintenance due for a period exceeding two months, the Judge of the Family Court* may, after due inquiry, by an order, hereinafter referred to as an "attachment of salary order", require the person to whom the order is directed, being a person appearing to the Judge of the Family Court* to be the defendant's employer, to deduct, for such period as may be specified in the order, such amount from the defendant's salary as may be specified in the order and forthwith to remit that amount to the court.

(2) (a) Before an order is made under subsection (1) of this section, the Judge of the Family Court* shall notice the person on whom he proposes to serve an order under that subsection to show cause, if any, why an order should not be made under that subsection and to require him to furnish to the court, within such period as may be specified in such order, the salary particulars of the defendant. Any order made under subsection (1) of this section may be the subject of an appeal to the Court of Appeal by any person aggrieved by such

order but notwithstanding such appeal, the Judge of the Family Court* may decide to continue proceedings under this Ordinance. The provisions of section 17 of this Ordinance shall apply to or in relation to every such appeal.

(b) The Judge of the Family Court* may also by an order served on the defendant require him to furnish to the Court, within such period as may be specified in such order, a statement specifying—

- (i) the name and address of his employer, or of his employers, if he has more than one employer;
- (ii) such particulars as to his salary as may be within his knowledge;
- (iu) and such other particulars as are required or necessary to enable his employer or employers to identify him.

(3) A document purporting to be such a statement as is mentioned in subsection (2) (b) of this section shall, in any proceedings in any court, be received in evidence and be deemed to be such a statement without further proof unless the contrary is shown.

(4) The Judge of the Family Court* shall not make an attachment of salary order if it appears to him that the failure of the defendant to make any payment in accordance with the order of maintenance in question was not due to his wilful refusal or culpable neglect.

(5) In determining the amount to be deducted in terms of subsection (1) of this section, the Judge of the Family Court* shall have regard to the resources and needs of the defendant and the needs of the person, payment of whose maintenance is in default.

(6) An attachment of salary order shall not come into force until the expiration of fourteen days from the date on which a copy of the order is served on the person to Whom the order is directed.

(7) An attachment of salary order may, on the application of the defendant or the person entitled to receive payments under the order of maintenance, be discharged or varied.

* See footnote to section 2.

(8) A person to whom an attachment of salary order is directed shall, subject to the provisions of this Ordinance, comply with the order or, if the order is subsequently varied under subsection (7) of this section, with the order as so varied.

(9) For the purposes of this section,—

(a) where the defendant is a public servant, the head of the department to which he is for the time being attached shall be deemed to be his employer; and

(b) where the defendant is a member of the Local Government Service and employed in any local authority, the Commissioner, if it be a Municipal Council, or the Chairman, if it be an Urban Council or a Town Council or a Village Council, as the case may be, shall be deemed to be his employer.

(10) Where on any occasion on which any deductions have to be made from the salary of a defendant in pursuance of an attachment of salary order, there are in force two or more attachment of salary orders relating to such salary, then, for the purposes of complying with this section, the employer shall—

(a) deal with such orders according to the respective dates on which they came into force, disregarding any subsequent order until any earlier order has been dealt with; and

(b) deal with any subsequent order as if the salary to which such order relates was the residue of the defendant's salary after making any payments in pursuance of an earlier order.

(11) An employer who, in pursuance of an attachment of salary order, makes any payment to court under this section shall forthwith give to the defendant a statement in writing specifying the amount deducted from his salary in pursuance of such order.

(12) Where any payment is made by an employer in pursuance of an attachment of salary order, the court shall forthwith pay that amount to the person who is entitled to receive the same.

(13) Any employer who fails or neglects to comply with an attachment of salary order shall be liable on conviction by a Magistrate's Court to a fine not exceeding two hundred rupees and in the case of a second or subsequent conviction in respect of the same attachment of salary order, to a fine not exceeding five hundred rupees :

Provided that it shall be a defence for an employer charged with failing or neglecting to comply with an attachment of salary order to prove that he took all reasonable steps to comply with such order.

(14) The provisions of this section shall have effect notwithstanding anything in any other written law.

(15) For the purposes of this section, the expression " salary " includes all allowances and wages.

8B. (1) Where an order for maintenance is made under the provisions of this Ordinance, the Judge of the Family Court* may direct the defendant that the amount of the payment due under such order shall be deposited each month on or before such date as may be specified in such order in favour of the person entitled to such payment, at such post office, bank or divisional Assistant Government Agent's office as may be specified in such order, and the amount so deposited may be drawn by such person from such post office, bank or divisional Assistant Government Agent's office, and it shall be the duty of the officer for the time being in charge of such post office, bank or divisional Assistant Government Agent's office to pay that amount to the person entitled thereto upon application made in that behalf.

Payment of maintenance through post office, bank or divisional Assistant Government Agent. [§ 5, 19 of 1972.]

(2) Where a direction has been made under subsection (1) of this section and there has been default in the deposit of payments as specified in such direction, the

* See footnote to section 2.

officer for the time being in charge of such post office, bank or divisional Assistant Government Agent's office shall report such default to the court within seven days of such default and the Judge of the Family Court* may in such event, notice the defendant to show cause why he should not be dealt with for such default, and if satisfied after due inquiry that there has been any default, impose such punishment as is provided by this Ordinance.

on the production of such order and on being satisfied as to the identity of the parties and the non-payment of the allowance due, proceed under section 8 or section 8A.

[§ 7, 19 of 1972]

12. The person applying for an order of maintenance or for a warrant to enforce such order (hereinafter called the applicant), and the person against whom such order or warrant is applied for (hereinafter called the defendant), may either appear personally or by pleader:

Procedure. Attendance of parties at inquiry.

Provided that it shall be competent to the Judge of the Family Court* to require the personal attendance of either the applicant or the defendant at any stage of the inquiry.

13. Every application for an order of maintenance or to enforce such an order shall be in writing and shall be signed by the applicant and shall be free of any stamp duty. Every summons to a defendant or witness shall also be free of stamp duty.

Inquiry how applied for. Applications and process to be free of stamp duty. [§ 8, 19 of 1972.]

14. (1) Every application for an order of maintenance or to enforce an order of maintenance shall be supported by an affidavit stating the facts in support of the application and the Judge of the Family Court* shall, if satisfied that the facts set out in the affidavit are sufficient, issue a summons on the defendant to appear and to show cause why the application should not be granted.

Commencement of inquiry. [§ 9, 19 of 1972.]

(2) The Judge of the Family Court* shall, after such inquiry as he may consider necessary, make order allowing or refusing the application and, if necessary, an order under section 8 or section 8A.

15. The Judge of the Family Court* may proceed in manner provided in Chapters V and VI of the Code of Criminal Procedure Act, to compel the attendance of the defendant and of any person required by the applicant or defendant or by the Judge of the Family Court* to give evidence, and the production of any document necessary for the purposes of the inquiry.

Attendance of defendant and witnesses how enforced.

16. All evidence taken by the Judge of the Family Court* under this Ordinance

Form of proceedings.

Order as to costs, and enforcement thereof.

9. When disposing of any application or appeal under this Ordinance, the Family Court* or the Court of Appeal may order either party to pay all or any part of the costs of such application or of the costs of application and appeal, as the case may be, and such order shall be subject to the provisions and conditions laid down in the Civil Procedure Code, relating to costs so far as they may be applicable, and the amount due under the order shall be recoverable as if it were a fine, and in default of payment imprisonment of either description may be imposed for a period not exceeding one month:

Provided that bills of costs shall be taxed in the manner provided by section 65 of the Primary Courts' Procedure Act, or, in the case of an appeal, in the manner prescribed for costs in an appeal from an order of the Primary Court.

Application for cancellation of order or alteration in amount of allowance.

10. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of this Ordinance, and on proof of a change in the circumstances of any person for whose benefit or against whom an order for maintenance has been made under section 2, the Judge of the Family Court* may either cancel such order or make such alteration in the allowance ordered as he deems fit.

[§ 6, 19 of 1972.]

Copy of order given to party.

11. A copy of the order of maintenance certified under the hand of the Judge of the Family Court* shall be given without payment to the person in whose favour it is made, or to his or her guardian, if any, or to the person to whom the allowance is to be paid; and any Judge of the Family Court* having jurisdiction over the place where any such person or the defendant may be, shall,

Where order enforceable. [§ 7, 19 of 1972.]

* See footnote to section 2.

shall be taken in the presence of the defendant, or, when his personal attendance is not required by the Judge of the Family Court*, in the presence of his pleader, and shall be recorded in the manner prescribed for trials in the Magistrate's Court:

Provided that it shall not be necessary to frame a charge or to record the statement of the defendant in the manner prescribed in the Code of Criminal Procedure Act:

Provided also that in any proceedings under this Ordinance it shall be competent to the defendant to give evidence upon oath or affirmation as an ordinary witness, and that a wife shall be a competent witness against her husband.

17. Any person who shall be dissatisfied with any order made by a Judge of the Family Court* under section 2 or section 14 may prefer an appeal to the Court of Appeal in like manner as if the order was a final order pronounced by a Magistrate's Court in a criminal case or matter, and sections 320 to 330 (inclusive) of the Code of Criminal Procedure Act shall apply to such appeal.

18. The forms set forth in the Schedule, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

The parties competent witnesses.

[Section 18.]

SCHEDULE

No. 1

SUMMONS TO A DEFENDANT

In the Family Court* of..... To..... of.....

Whereas your attendance is necessary to answer to a charge of not maintaining your wife (name) (or legitimate or illegitimate child) (name, or say child by..... giving mother's name):

Or:

Whereas your attendance is necessary to answer to a charge of having committed a breach of an order of maintenance made against you under the Maintenance Ordinance by non-payment of the allowance due to your wife (or child)..... (give name or describe as above) for..... (state period):

You are hereby required to appear in person (or by pleader, as the case may be) before the Family Court* of..... on the..... day of..... 19..... Herein fail not.

Dated this.....day of.....19.....

Signed XY

Judge of the Family Court*/Authorised Officer.

No. 2

WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

In the Family Court* of.....to the Superintendent of the Prison at.....

Whereas (name, description, and address) has been proved to be possessed of sufficient means to maintain his wife (name) (or his child) (name, or describe as in summons), who is unable to maintain herself (or himself), and to have neglected (or refused) to do so, and an order has been duly made requiring the said (name) to allow to his said wife (or child) for maintenance the monthly sum of.....rupees; and whereas it has been further proved that the said (name), in wilful disregard of the said order, has failed to pay..... rupees, being the amount of the allowance for the month (or months) of..... and thereupon an order was made adjudging him to undergo simple (or rigorous) imprisonment for the period of.....:

* See footnote to section 2.

This is to authorize and require you, an officer of the Department of Prisons to take the said *(name)* and him safely deliver to the Superintendent referred to above, together with this warrant, and I do hereby command you the said Superintendent of the said Prison to receive the said.....into your custody in the said Prison, and there carry the said order into execution, according to law; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this.....day of..... 19.....

Signature.....

No. 3

WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE

In the Family Court* of.....

To the Fiscal of the Family Court* of.....

Whereas an order has been duly made requiring *(name)* to allow to his wife *(or child)* for maintenance the monthly sum of.....-rupees ; and whereas the said *(name)*, in wilful disregard of the said order, has failed to pay.....rupees, being the amount of the allowance for the month *(or months)* of.....:

This is to authorize and require you to make distress by seizure of any movable property belonging to the said *(name)* which may be found within the district of..... and if within *(state the number of days or hours allowed)* next after such distress the said sum shall not be paid *(or forthwith)*, to sell the movable property distrained, or so much thereof as shall be sufficient to satisfy the said sum; returning this warrant with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this.....day of..... ,19..

Signature.....

* See footnote to section 2.

CHAPTER 131

MARRIAGES (GENERAL)

Ordinances
 Nos.19 of 1907,
 27 of 1917,
 8 of 1922,
 18 of 1929,
 27 of 1931,
 15 of 1940,
 49 of 1944,
 20 of 1945,
 34 of 1946,
 47 of 1947,
Acts
 Nos.22 of 1955,
 11 of 1963,
 3 of 1970.
Laws
 Nos.41 of 1975,
 23 of 1978.

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW RELATING TO MARRIAGES OTHER THAN THE MARRIAGES OF MUSLIMS AND TO PROVIDE FOR THE BETTER REGISTRATION THEREOF.

[1st January, 1908.]

Short title.

1. This Ordinance may be cited as the Marriage Registration Ordinance.

Marriages. Any person so appointed may exercise, perform or discharge any power, duty or function expressly conferred or imposed upon the Assistant Registrar-General, and may subject to the directions of the Minister and under the authority and control of the Registrar-General, exercise, perform or discharge any power, duty or function conferred or imposed upon the Registrar-General, by or under this Ordinance.

Appointment of Registrar-General and his duties.

2. (1) There may be appointed a Registrar-General of Marriages for Sri Lanka.

(2) The Registrar-General shall, subject to the directions of the Minister, have the general control and superintendence of the registration of marriages under the provisions of this Ordinance, and of all persons appointed for or engaged in the carrying out of the provisions of this Ordinance.

4. (1) For each district there shall be a District Registrar of Marriages.

District Registrars.

(2) The Government Agent of a district shall be the District Registrar for that district.

Appointment of Deputy Registrar-General and his duties.
 [§§2 and 3, Law 23 of 1978.]

(3) There may be appointed a fit and proper person to be or to act as a Deputy Registrar-General of Marriages.

(3) Every Additional Government Agent, Assistant Government Agent, Additional Assistant Government Agent and Office Assistant to a Government Agent, of a district shall be an Additional District Registrar for that district.

(4) The Deputy Registrar-General may, subject to the authority and control of the Registrar-General for the time being, exercise, perform or discharge any power, duty or function conferred or imposed upon such Registrar-General by or under this Ordinance or by or under any other written law.

(4) Every Assistant Registrar-General shall be an Additional District Registrar for the district of Colombo.

Appointment of Assistant Registrars-General and their duties.

3. There may from time to time be appointed a fit and proper person or each of two or more such persons to be or to act as an Assistant Registrar-General of

(5) There may be appointed any person as a District Registrar or as an Additional District Registrar in addition to, or in place

of, any officer who is a District Registrar or an Additional District Registrar by virtue of the preceding provisions of this section.

(6) Every District Registrar shall have and may exercise within his district the powers and duties vested by or under this Ordinance in a registrar of a division, and shall superintend and control, subject to the direction of the Registrar-General, the registration of marriages within the district, and the registrars hereinafter mentioned, and all other persons appointed for or engaged in carrying out the provisions of this Ordinance.

Establishment of registration divisions.

5. (1) The Minister may, by Notification In the Gazette, divide the several districts of Sri Lanka into such and so many divisions for the purpose of the registration of marriages as shall appear expedient, and may at any time by a like Notification amend, alter or abolish any such division.

(2) Every division which has been lawfully established at the commencement of this Ordinance shall be deemed and taken to be a division under the provisions of this Ordinance until such time as a new division shall be constituted in lieu thereof under the provisions of this Ordinance.

(3) Every reference to any revenue district in any Notification made under subsection (1) of this section before the commencement of the Administrative Districts Act shall, after the commencement of that Act, be construed as a reference to the administrative district consisting of the area which constituted that revenue district.

Appointment of registrars.

6. The Registrar-General may appoint one or more persons to each such division, who shall be called Registrars of Marriages, and any such registrar at pleasure he may remove and appoint some other person in his place, or in the place of any registrar who shall have died or resigned office, or been granted leave of absence from his duties:

Provided that in case of the death, sudden illness, or incapacity of the registrar of a division, or in case of other emergency, it shall be lawful for the Registrar-General or District Registrar, by writing under his

hand, to appoint a person to act as registrar for such division so however that no such appointment shall be made by a District Registrar for any period exceeding thirty days at any one time. Such acting appointment shall be forthwith entered under the hand of the officer making the appointment in a book to be kept for the purpose.

7. (1) The Minister may from time to time make rules for the direction of the Registrar-General, the District Registrars, registrars, ministers, and all persons whomsoever In the discharge of their duties under this Ordinance, for all matters required by this Ordinance to be prescribed, and generally for the effective carrying out of the provisions of this Ordinance. Power to make rules.

(2) No rule made under this section shall have effect until It Is approved by Parliament and notification of such approval is published in the Gazette.

8. (1) Every registrar shall dwell and have his office in such convenient place in his division as shall be appointed by the District Registrar, and shall, if so directed by the District Registrar, have within his division a station or stations as may be approved by the District Registrar, and every such station shall, for the purposes of the provisions of this Ordinance, with respect to the attendance of persons and the registration of marriages at the office of the registrar, be deemed to be his office: Residence, office, and station of registrar.

Provided that the District Registrar may, in the special circumstances of any case and with the prior approval of the Registrar-General, authorize a registrar to dwell or to have his office or to have a station at a place outside his division.

(2) The District Registrar shall forthwith notify to the Registrar-General the places appointed by the District Registrar as the residence, office, and station or stations for every registrar of his district.

9. The registrar shall attend at his office and at each such station on such days and during such hours as shall respectively be appointed by the District Registrar, and shall cause his name, with the addition of Attendece of registrar at his office.

the words " Registrar of Marriages " with the name of the division for which he is registrar, and the days and hours of his attendance as appointed by the District Registrar, to be placed in legible characters in the Sinhala, Tamil and English languages in a conspicuous place on or near the entrance of his office and station.

Registration of place of worship for solemnization of marriage.

10. (1) The minister, proprietor, or trustee of a building used as a place of public Christian worship may apply to the Registrar-General that such building may be registered for solemnizing marriages therein.

(2) The application shall be in the form A in the First Schedule, and shall contain a declaration signed by at least twenty householders, and countersigned by the said minister, proprietor, or trustee, that they frequent or intend to frequent such place of worship.

(3) The Registrar-General may register such place of worship for the solemnization of marriages in a book to be kept by him for that purpose, and he shall thereupon give a certificate of such registry and of the date thereof under his hand, which certificate shall be in the form B in the First Schedule, and the Registrar-General shall give public notice of such registry by notification in the Gazette.

(4) No building shall be registered which is not used for public Christian worship.

(5) Any building already registered at the time when this Ordinance comes into operation shall be deemed to have been registered under the provisions of this Ordinance.

Registration of such place in thinly populated district,

11. Where the population in any district is so scattered that it is difficult to procure the signatures of twenty householders, it shall be lawful for the Registrar-General to issue his certificate upon a declaration signed by as many householders as live within convenient distance from the building, and countersigned by the minister, proprietor, or trustee, and upon such other evidence as the Registrar-General may require to satisfy him that the building is used for public Christian worship.

12. (1) If any building registered for the solemnization of marriages shall at any subsequent period cease to be used for the public Christian worship of the congregation on whose behalf it was registered, the minister, proprietor, or trustee for the time being of such building shall with all convenient speed notify the fact to the Registrar-General in form C in the First Schedule, and the Registrar-General shall cause the registry thereof to be cancelled.

Cancellation or substitution of registration of building.

(2) If it shall be proved to his satisfaction that the same congregation use some other such building for the purpose of public Christian worship, he may register such new place of worship instead of the disused building.

(3) Such cancellation or substitution when made shall be entered in the book kept for the registry of such buildings, and shall be certified and published in the manner prescribed in the case of the original registry of the disused building.

(4) After such cancellation or substitution as aforesaid it shall not be lawful to solemnize any marriage in such disused building, unless the same shall be again registered in the manner prescribed by section 10.

13. The Registrar-General may at any time correct or cause to be corrected any error in any entry made in the book kept under section 10 for the registration of buildings.

Rectification of errors.

14. The Registrar-General may from time to time publish in the Gazette a list of the Registrars of Marriages in Sri Lanka, with their names, the names of their divisions, offices, and stations, and a list of the buildings registered for the solemnization of marriages therein, and of which the registration has not been cancelled.

Publication of lists of registrars and registered buildings.

15. No marriage shall be valid, the male party to which has not completed sixteen years of age or the female twelve, or if a daughter of European or Burgher parents, fourteen years of age.

Prohibited age of marriage.

Prohibited degrees of relationship.

- 16.** No marriage shall be valid—
- (a) where either party shall be directly descended from the other; or
 - (b) where the female shall be sister of the male either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow; or
 - (c) where the male shall be brother of the female either by the full or the half-blood, or the son of her brother or sister by the full or the half-blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.

Marriage of persons within prohibited degrees of relationship an offence.

17. Any marriage or cohabitation between parties standing towards each other in any of the above-enumerated degrees of relationship shall be deemed to be an offence, and shall be punishable with imprisonment, simple or rigorous, for any period not exceeding one year.

Second marriage without legal dissolution of first marriage invalid.

18. No marriage shall be valid where either of the parties thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void.

Dissolution of marriage.

19. (1) No marriage shall be dissolved during the lifetime of the parties except by judgment of divorce *a vinculo matrimonii* pronounced in some competent court.

(2) Such judgment shall be founded either on the ground of adultery subsequent to marriage, or of malicious desertion, or of incurable impotency at the time of such marriage.

(3) Every court in Sri Lanka having matrimonial jurisdiction is hereby declared competent to dissolve a marriage on any such ground.

20. (1) No suit or action shall lie in any court to compel the solemnization of any marriage by reason of any promise or contract of marriage, or by reason of the seduction of any female, or by reason of any cause whatsoever.

Suits to compel marriage prohibited.

(2) No such promise, or contract, or seduction shall vitiate any marriage duly solemnized and registered under this Ordinance.

(3) Nothing herein contained shall prevent any person aggrieved from suing for or recovering in any court damages which are lawfully recoverable for breach of promise of marriage, for seduction, or for any other cause:

Provided that no action shall lie for the recovery of damages for breach of promise of marriage, unless such promise of marriage shall have been made in writing.

***22.** (1) (a) The father of any person under twenty-one years of age ; or

Who may give consent to marriage of a minor.

(b) if the father be dead or under legal incapacity, or in parts beyond Sri Lanka and unable to make known his will, the mother; or

(c) if both father and mother be dead or under legal incapacity, or in parts beyond Sri Lanka and unable to make known their will, the guardian or guardians appointed over the party so under age by the father, or if the father be dead or under legal incapacity, by the mother of such party or by a competent court,

shall have authority to give consent to the marriage of such party, and such consent is hereby required for the said marriage :

Provided that no such consent shall be required in the case of a widow or widower or a person who shall have been previously married, and whose marriage shall have been legally dissolved.

(2) If there be no person authorized as aforesaid to give consent, or if the person so authorized unreasonably withholds or

* Section 21 is repealed by Act No. 3 of 1970.

refuses his or her consent, the Judge of the Family Court within whose jurisdiction the party so under age resides, may, upon the application of any party interested in such marriage, and after summary inquiry, give consent to the said marriage, and such consent is hereby required for the said marriage.

Preliminaries to be observed prior to a marriage.

23. In every case of marriage intended to be solemnized under the provisions of Ordinance, the following preliminaries shall be observed :—

(1) If the parties to an intended marriage have been both resident in Sri Lanka for ten days, one of the parties shall give notice to a registrar of the division in which they have dwelt for not less than ten days then next preceding or to the District Registrar in whose district they have so dwelt.

(2) If both parties have not dwelt in the same division for ten days then next preceding, but in different divisions, then each party shall give notice to a registrar of the division in which he or she has dwelt for not less than ten days next preceding the giving of such notice or to the District Registrar in whose district he or she has so dwelt.

(3) If one of the parties to an intended marriage has not been resident in Sri Lanka for ten days next immediately preceding the giving of notice, notice shall be given by the other party who has been so resident to the registrar in whose division or to the District Registrar in whose district he has been resident ten days next preceding the giving of such notice.

(4) If neither party has been resident for ten days in Sri Lanka, notice may be given to the registrar in whose division or to the District Registrar in whose district one of the parties has been resident for not less than four days.

(5) The notice given by one party under subsections (3) or (4) shall be a sufficient notice of such intended marriage, and may be given in anticipation of the arrival of the other party from abroad.

24. (1) Every such notice may be given to the registrar at any place within his division, and shall be in the form D in the First Schedule, and shall state—

Form of notice and declaration.

(a) the name in full, race, age, profession, civil condition, and dwelling place of each of the parties intending marriage, and

(b) if the case be so, that the other party is absent from Sri Lanka or has not resided for ten days in any part of Sri Lanka (as the case may be), and also

(c) the name in full and rank or profession of the father of each such party.

(2) Such notice shall also bear on its face or shall have attached thereto the written consent of any person whose consent is required by law.

(3) The party giving the notice shall make and sign or subscribe a declaration in writing in the body or at the foot of such notice—

(a) that he or she believes that there is no impediment of kindred or alliance or other lawful hindrance to the said marriage,

(b) that he or she has for the space of ten clear days or other prescribed period immediately preceding the giving of such notice dwelt within the division of the registrar to whom such notice shall be so given, and

(c) that the consent of the person or persons whose consent is required by law has been given.

(4) Every such notice and declaration shall be so signed and subscribed in the presence of any one of the following persons, hereafter called an attesting officer, namely—

(a) the registrar of the division, or

(b) a Justice of the Peace, or

- (c) a notary, or
- (b) a minister,

and of two respectable witnesses.

The witnesses shall be personally acquainted with the party giving the notice and (in the event of the party not being known to the attesting officer) also with the attesting officer, and shall sign the notice. The full names, rank or profession, and place of abode of the witnesses shall be entered in the said notice.

(5) At the foot of the notice and declaration the attesting officer shall make a certificate substantially as in the final column of the form *D* in the First Schedule.

(6) Every notice to a District Registrar under subsections (1) or (2) and every notice under subsection (3) of section 23 shall bear a stamp of the value of ten rupees, and every notice under subsection (4) thereof shall bear a stamp of the value of thirty rupees. The stamp shall be supplied by the party giving the notice.

Publication of notice.

25. (1) Every registrar to whom notice of an intended marriage is duly given as aforesaid shall forthwith enter in the notice the date of its receipt and shall file and keep it with the records of his office, and shall forthwith enter the particulars of the notice in a book to be called "The Marriage Notice Book", which shall be kept in the form *E* in the First Schedule, and which shall be open at all reasonable times without fee to the inspection of all persons claiming to be interested in any entry therein.

(2) The registrar shall cause a true copy under his hand of the notice of marriage to be posted in some conspicuous place in his office during twelve successive days after the entry of such notice.

(3) If the parties to the intended marriage shall have given notice to different registrars under subsection (2) of section 23, each registrar shall also, upon receipt of the notice, forward a certified copy thereof to the other registrar, and give a like copy to the party giving such notice.

26. (1) At any time not less than issue of twelve days (except as provided in section certificate. 27), nor more than three months (except as provided in section 31) from the entry of the notice, the registrar, or where notice has been given to two registrars, each of them, or, in any case referred to in section 28, the registrar nominated in that behalf by the Registrar-General or by the District Registrar, shall upon application of the party giving such notice, and on receipt of the certified copy of the notice, if any, given to the other registrar, issue a certificate substantially in the form *F* in the First Schedule:

Provided that in the meantime no lawful impediment to the issuing of such certificate be shown to the registrar, and provided that the issuing of such certificate shall not have been forbidden or a caveat entered in the manner hereinafter provided.

- (2) Every such certificate shall state—
 - (a) the day on which it was entered,
 - (b) that the issue of the certificate has not been forbidden by any person lawfully empowered in that behalf, and
 - (c) that the full period of twelve days has elapsed since the entry of the notice, or where two notices have been given since the entry of both notices, or that the issue of the certificate has been authorized by licence under section 27.

27. (1) At any time after the entry of issue of the notice, and upon the production of a licence. certified copy of such notice, the District [§ 5, Law 41 of Registrar within whose district such notice 1975.] has been given or the registrar to whom notice has been given, may issue, subject to the provisions of subsection (3), a licence under his hand substantially in form *G* in the First Schedule authorizing the District Registrar or the registrar to whom notice has been given or, in any case referred to in section 28 such other registrar as he may specify in the licence, to issue the certificate under section 26, if in the meantime no lawful impediment to the issue of such certificate is shown to the satisfaction of such registrar or if the issue of such certificate has not been forbidden or a caveat entered in the manner hereinafter provided.

(2) Where the parties to the intended marriage have given notice to two registrars under subsection (2) of section 23, the District Registrar within whose district one or both of such notices have been given or either of the two registrars to whom notice has been given, may issue, upon the production of a certified copy of each such notice, and subject to the provisions of subsection (3) of this section, a licence to each of the registrars, or, in any case referred to in section 28, to such other registrar as may be specified therein, and such licence shall be substantially in the form H in the First Schedule.

(3) Before the issue of such licence one of the parties to the intended marriage shall appear personally before the District Registrar or the registrar, or where notice has been given to two registrars, before either of those two registrars and make and subscribe a written declaration that—

- (a) he or she believes that there is not any impediment of kindred or alliance, or of any other lawful cause, or other lawful hindrance, to the said marriage;
- (b) that the consent of any person or persons whose consent is required has been obtained ; and
- (c) that the issue of the certificate has not been forbidden, nor any caveat entered, nor any suit is pending in any court to bar or hinder the said marriage.

(4) Where the declaration is made before the District Registrar it shall bear stamps to the value of thirty rupees to be supplied by the party making the declaration and where the declaration is made before the registrar of a division it shall be accompanied by a receipt issued by the District Registrar in proof of payment of a sum of thirty rupees.

(5) The registrar to whom the licence is issued shall, upon the receipt thereof, issue his certificate, and every such certificate shall state the particulars set forth in the notice and the day on which it was entered,

and that the issue of the certificate has been authorized by the licence of the District Registrar or the registrar.

28. (1) Where, by virtue of any Notification under section 5, any area which is situated within any registration division (hereinafter referred to as -the "old division ") becomes, with effect from a date specified in that Notification, a separate division or a part of any other existing division (hereinafter referred to as the " new division"), and where, before that date, notice of an intended marriage is given by a party resident within that area, but the certificate under section 26 is not issued before that date or the marriage is not solemnized before that date, then, notwithstanding anything in this Ordinance, that certificate may be issued, or that marriage may be solemnized, and any other act required by this Ordinance to be done in that connection by a registrar of the old division may be done, by a registrar of the old division or of the new division nominated in that behalf by the District Registrar within whose district that area is situated; and every such registrar shall comply with such directions as may be given to him by the District Registrar.

Issue of certificates and solemnization of marriages upon alteration of divisions.

(2) The provisions of subsection (1) shall apply in every case where one registration division is amalgamated with another registration division to form a new division in like manner as those provisions apply to a case where an area within any registration division becomes a separate division or a part of any other existing division.

29. Every person whose consent to a marriage is required by law may forbid the issue of the registrar's certificate by signing and subscribing, in the presence of the registrar and of two credible witnesses, who shall be personally acquainted with the person forbidding, and shall be known to the registrar or be resident within his jurisdiction, and by delivering to him a notice in writing in the form I in the First Schedule, with his or her name, place of abode, and the capacity in which he or she forbids the marriage.

Forbidding of issue of certificate.

30. (1) Any person may at any time before the issue of the certificate enter a caveat against its issue. Such caveat shall be in the form J in the First Schedule.

Caveat.

(2) The caveat shall contain a statement of the name and residence of the caveator, the names and residences of the parties to whose marriage he objects, and the grounds on which he objects to the marriage, and shall be written on paper bearing a stamp of ten rupees, and shall be signed in the presence of the registrar and of two credible witnesses (who shall be personally acquainted with the caveator, and shall be known to the registrar or be resident within his jurisdiction), and shall be delivered to the said registrar.

Proceedings on marriage being forbidden or caveat entered.

31. (1) In the event of a marriage being forbidden or of a caveat being entered as aforesaid, the registrar shall refuse to issue the certificate, and shall forthwith make report of the objection to the Judge of the Family Court of the district within which his division is situated. Such report shall be in the form K in the First Schedule, and shall be accompanied by a copy of the notice of marriage and of the notice forbidding the marriage or of the caveat entered.

(2) The Judge of the Family Court shall thereon proceed to make summary inquiry (in which the person forbidding the marriage or entering the caveat shall be respondent) into the grounds of objection to the marriage, and shall order the certificate to issue or not to issue as shall appear to him just, and he shall have power, if it be proved to his satisfaction in the course of the inquiry that the marriage was forbidden or caveat entered by such person on frivolous or vexatious grounds, to impose on him a fine not exceeding one thousand rupees.

(3) The order of the Judge of the Family Court shall be subject to appeal to the Court of Appeal.

(4) A copy of the order of the Judge of the Family Court, or of the Court of Appeal, certified under the hand of the Judge of the Family Court, shall be forwarded by him to the registrar, who shall thereon issue or refuse to issue the certificate as such order shall direct.

(5) The time taken up in disposing as aforesaid of the objection to the marriage shall not be taken into account in the calculation of the period of three months under section 26 or section 39.

***33.** On the production of the certificate of the registrar, or, where notice has been given to two registrars, on the production of a certificate from each of the registrars, to a minister, or to a registrar (to whom either or both the parties shall have given notice, or, in any case referred to in section 28, who may be nominated in that behalf by the District Registrar), it shall be lawful for a marriage to be solemnized between the said parties—

Where may marriage be solemnized.

- (a) by or in the presence of the minister in a registered place of worship or other authorized place, or
- (b) by the registrar in his office, station, or other authorized place:

Provided that there be no lawful impediment to the marriage.

34. (1) A marriage in a registered place of worship shall be solemnized by or in the presence of the minister of such building or a minister thereto authorized by him, with open doors, between six o'clock in the morning and six o'clock in the afternoon in the presence of two or more credible witnesses, and according to the rules, customs, rites, and ceremonies of the church, denomination, or body to which such minister belongs.

Solemnization of marriage by minister.

(2) Immediately after the solemnization of a marriage the minister shall enter in duplicate, in a book to be kept for that purpose, a statement of the particulars of the marriage in the form L in the First Schedule. Every such entry shall be numbered consecutively.

(3) The statement shall be signed by the minister, by the parties to the marriage, and by two respectable witnesses who shall have been present at the solemnization thereof, and who shall be personally acquainted with the parties and (in the event of the parties

* Section 32 is omitted, as its operation is confined to marriages between British subjects resident in the United Kingdom and in Sri Lanka.

not being known to the minister) also with the minister, and whose full names, rank or profession, and places of residence shall be added to the statement by the minister.

(4) The minister shall see that the particulars entered in the book regarding the names, race, civil condition, age, profession or occupation, and residence of the parties to the marriage correspond with the particulars given in the registrar's certificate, and that the parties and witnesses sign their names legibly. If any party or witness signs illegibly, or affixes a mark or cross, the minister shall write the name of such party or witness immediately over such signature or mark, with the words " This is the signature of ", or "This is the mark of ", immediately preceding such name.

(5) The minister shall, within seven days from the date of the solemnization of the marriage, separate from the register book the duplicate statement of the marriage and transmit the same to the District Registrar within whose district the marriage was solemnized together with stamps of a value equal to the amount of the fee payable to such Registrar for the registration of such marriage.

[§49,11 of 1963.]

[§ 5, Law 41 of 1975.]

(6) The District Registrar shall, upon receipt of the minister's duplicate statement, together with the stamps equal in value to the amount of the fee payable to such registrar for the registration of the marriage, forthwith send to the minister an acknowledgment of the same, and enter or cause to be entered the particulars thereof or of the copy prepared under section 37 (2) in triplicate, that is to say, the original, the second copy (hereinafter referred to as the "duplicate"), and a third copy in a marriage register book to be kept by him, in the form M in the First Schedule, and shall certify that the particulars have been obtained from the minister's statement, and shall carefully preserve the said minister's statement until despatched to the Registrar-General as in section 37 provided. The third copy shall bear an endorsement under the hand of the District Registrar to the effect that it is issued under section 35A.

(7) No minister shall be compelled to solemnize a marriage between persons either

of whom shall not be a member of thb church, denomination, or body to which such minister belongs, nor otherwise than according to the rules, customs, rites, and ceremonies of such church, denomination, or body.

(8) A minister shall refuse to solemnize a marriage until the parties thereto have paid to him, for transmission to the District Registrar, the fee payable to such Registrar for the registration of the marriage. [§49,11 of 1963.]

35. (1) A marriage in the presence of the registrar shall, except as hereinafter provided, be solemnized between the parties at his office or station with open doors, and between the hours of six o'clock in the morning and six o'clock in the afternoon, and in the presence of two or more respectable witnesses, and in the following manner:—

Solemnization of marriage by registrar.

(2) The registrar shall address the parties to the following effect :—

"Be it known unto you, *A. B.* and *C D.*, that by the public reception of each other as man and wife in my presence, and the subsequent attestation thereof by signing your name to that effect in the registry book, you become legally married to each other, although no other rite of a civil or religious nature shall take place; and know ye further that the marriage now intended to be contracted cannot be dissolved during your lifetime except by a valid judgment of divorce, and that if either of you before the death of the other shall contract another marriage before the former marriage is thus legally dissolved, you will be guilty of bigamy and be liable to the penalties attached to that offence ".

(3) Each of the parties shall then make in the presence of the registrar and witnesses the following declaration:

" I do solemnly declare that I know not of any lawful impediment why I, *A. B.*, may not be joined in matrimony to *C. D.*, here present",

and each party shall say to the other:

" I call upon all persons here present to witness that I, A. B., do take thee, C. D., to be my lawful wedded wife (or husband) ". :

(4) If either of the parties be deaf or dumb as well as unable to write, the declaration and statement shall be interpreted to him or her, and his or her assent obtained by whatever means of communication are commonly used by him or her, and the registrar shall take special care to satisfy himself that the party understands, assents to, and adopts the declaration and statement.

[§5, Law 41 of 1975.]

(5) The registrar shall then enter in triplicate, that is to say, the original, the second copy (hereinafter referred to as the "duplicate ") and a third copy, a statement of the particulars of the marriage in his marriage register book in the form M in the First Schedule, and shall cause the entry to be signed by the parties and witnesses, and himself sign it in the manner prescribed in regard to a marriage solemnized by a minister. The third copy shall bear an endorsement under the hand of the registrar to the effect that it is issued under section 35A.

(6) Every such entry shall be numbered consecutively.

Copy of registration entry to be issued free. [§5, Law 41 of 1975.]

35A. The third copy referred to in the preceding section shall forthwith, free of charge, be delivered or transmitted by post to the female party to the marriage by the District Registrar or the registrar.

Addition of religious ceremony to marriage solemnized by registrar.

36. (1) Where a minister of any Christian church or persuasion reads or celebrates in a registered place of worship any marriage service or ceremony at the request of the parties to any marriage which has previously been solemnized by a registrar, such reading or celebration shall not—

(a) be deemed to supersede or to affect in any way the marriage previously solemnized as aforesaid , or

(b) be entered as a marriage in the register book kept by the minister under section 34.

(2) No religious service or ceremony shall be read or celebrated at the office or station of a registrar in connexion with the solemnization of any marriage by the registrar.

37. (1) The duplicates of entries made by the registrar under section 35 shall be separated from the book by him and sent monthly to the District Registrar before the fifth day of the following month and by the District Registrar, together with the duplicates of any entries made by him as well as duplicates, if any, received from ministers under sections 34 and 40, to the Registrar-General, who shall cause the same to be filed and preserved in his office ; and if no marriage shall have been registered during any month, the said registrar shall certify such fact under his hand, and transmit such certificate in the manner prescribed in regard to the transmission of the duplicate entry.

Transmission to Registrar-General of duplicates of entries, substitution of original and duplicate entries, and reconstruction of original and duplicate entries.

(2) Where a duplicate of an entry in a marriage register made under section 34 or section 35 or section 40 is lost, damaged, has become illegible or is in danger of becoming illegible, the Registrar-General may, after such inquiry as he may consider necessary, cause such duplicate to be replaced by a copy of the original entry, certified by the District Registrar or, if the original entry is in the custody of the registrar or the minister, certified by such minister or registrar, as the case may be, and countersigned by the District Registrar after verification of the copy with the original, and shall cause such copy to be filed and preserved. Every copy so filed and preserved shall, for all purposes, be deemed to be a duplicate duly filed and preserved in the office of the Registrar-General, under subsection (1).

[§5, Law 41 of 1975.]

(3) Where an original of an entry in a marriage register made under section 34 or section 35 or section 40 is lost, damaged, has become illegible or is in danger of becoming illegible, and the duplicate is available, the Registrar-General may, after such inquiry as he may consider necessary,

[§5, Law 41 of 1975.]

cause to be substituted therefor a copy of the duplicate certified by him to have been made after verification with the duplicate and to be a true copy of the duplicate. Such copy shall replace the aforesaid original of the registration entry and shall, for all purposes, be deemed to be the original of the registration entry which was lost, damaged, had become illegible or was in danger of becoming illegible, as the case may be.

(4) Where both the original and the duplicate of an entry in a marriage register made under section 34 or section 35 or section 40 are lost, damaged, have become illegible or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such original and duplicate. Such copies shall, for all purposes, be deemed to be the original of the marriage registration entry and the duplicate, respectively.

38. (1) In case the female party to an intended marriage belongs to a class of people to whose customs it is contrary to require their females to appear in public before wedlock, it shall be lawful for the District Registrar, if he is satisfied after such inquiry as he may deem necessary that such female party has at all times observed and continues to observe the customs of that class with regard to such appearance in public, to issue a licence empowering a registrar to solemnize the marriage at such place and hour as the parties may prefer, and as may be named in the licence :

Provided that the requirements of this Ordinance in all other respects than the place and hour of marriage shall be fully complied with.

(2) In case the female party belongs to a class other than that described in the preceding subsection, or is, in the opinion of the District Registrar, not entitled to the benefits of that subsection, it shall be lawful for the District Registrar, upon the application of one of the parties to the intended marriage, and which application shall bear a stamp of the value of thirty rupees, to issue a licence empowering a

registrar to solemnize the marriage at such place and hour as the parties may prefer, and as may be named in the licence;

Provided that in every other respect than the place and hour of marriage the requirements of this Ordinance shall be fully complied with.

(3) Upon application by one of the parties to the proposed marriage or by the minister by or before whom it is intended to be solemnized to the District Registrar within whose district the marriage is to be solemnized, the District Registrar may issue a licence to the minister for the solemnization of the marriage at such place and at such hour as the parties may prefer :

Provided that in every other respect the requirements of this Ordinance shall be fully complied with, and provided further that the requirements of section 34, subsections (2), (3), (4), (5), and (6), shall apply to marriages solemnized hereunder.

39. Whenever a marriage shall not be had within three months, except as provided in section 31 (5), after the notice thereof shall have been entered by the registrar, or, if notices have been given to and entered by two registrars, after the earlier notice shall have been entered, the notice and any licence or certificate which may have been granted thereupon, and all other proceedings thereupon, shall be utterly void; and no such marriage shall be solemnized or registered until new notice shall have been given and certificate thereof issued in the prescribed manner.

40. (1) It shall be competent for a minister to solemnize without the preliminaries required by this Ordinance, at any convenient place, a marriage between parties of whom one is believed to be on the point of death:

Provided that such person is of sound mind, memory, and understanding.

(2) The minister shall immediately enter a statement of the particulars of the marriage in the book and in the manner prescribed by section 34, and shall at the foot of such entry, which shall be made in

[§5, Law 41 of 1975.]

Solemnization of marriage by minister or registrar under special licence.

New notice required after three months.

Death-bed marriage.

duplicate, make a certificate signed by himself and the witnesses to the solemnization, which certificate shall be substantially to this effect—

" We certify that A. B., one of the parties to the above marriage, is to the best of our knowledge and belief at the point of death, but of sound mind, memory, and understanding "

(3) Within twenty-four hours of such solemnization the minister shall send to the District Registrar the duplicate of such entry and certificate.

(4) The District Registrar shall, upon receipt of such duplicate and certificate, forward an acknowledgment of the same to the minister, and shall cause a copy of the same to be posted for twenty-one days in a conspicuous place in his own office and in the office of the registrar within whose division the marriage was solemnized.

(5) On the expiry of twenty-one days from the date of the first posting of the copy as aforesaid by the District Registrar, he shall enter the marriage in the marriage register book kept by him under section 34:

Provided that no caveat shall have been lodged or other proceedings taken by way of prohibition under sections 29 and 30, and on the registration of such marriage it shall be deemed to be valid and effectual for all purposes as if the same had been solemnized by or in the presence of the minister upon a certificate issued by the proper registrar and the requirements of section 34, subsections (2), (3), (4), (5), and (6), had been complied with.

(6) In the event of any caveat being entered or proceedings being taken by way of prohibition under sections 29 and 30, the District Registrar shall not register the marriage till the order of the Family Court or of the Court of Appeal is made under section 31,

Entry made by registrar in marriage register the best evidence of marriage.

41. (1) The entry made by the registrar in his marriage register book under sections 34, 35, and 40 shall constitute the registration of the marriage, and shall be the

best evidence thereof before all courts and in all proceedings in which it may be necessary to give evidence of the marriage,

(2) The copy substituted under section 37 (2) for the lost duplicate entry of a registrar shall for the purposes of this section be deemed an original entry made by the registrar.

42. After any marriage shall have been registered under this Ordinance it shall not be necessary, in support of such marriage, to give any proof of the actual dwelling or of the period of dwelling of either of the parties previous to the marriage within the division stated in any notice of marriage to be the place of his or her residence, or of the consent to any marriage having been given by any person whose consent thereto was required by law, or that the place or hour of marriage was the place or hour prescribed by this Ordinance, nor shall any evidence be given to prove the contrary in any suit or legal proceedings touching the validity of such marriage.

Proof of certian matters not necessary to validity of registered marriage.

43. (1) Where a marriage has been heretofore contracted or shall hereafter be contracted which, without fault of the parties thereto, may have been omitted to be registered, or may have been erroneously registered, either of the said parties, or in the case of his or her death the issue or other lawful representative of such party, may apply to the Family Court having jurisdiction over the division where the marriage was contracted to have such marriage duly registered, or the erroneous registration amended.

Mode of supplying omission and correcting error in registration

(2) The court, after due notice to the Registrar-General and the registrar or minister before whom the marriage was contracted, and to such other parties as the court shall deem expedient, and after hearing such evidence as may be produced before it or as it may think fit to call, shall, if it be satisfied that such marriage has been duly contracted and not registered, or not correctly registered, without fault of the parties thereto, order the marriage to be correctly registered.

(3) The Registrar-General shall thereupon cause the marriage to be correctly registered according to the directions of the court.

Correction of clerical errors in registers.

44. Any clerical error which may from time to time be discovered in a marriage register may, after due inquiry, be corrected by any person authorized in that behalf by the Registrar-General, subject to the rules made under the provisions of this Ordinance.

(2) After due inquiry the court may order and direct that all estate and interest in any property accruing to the offending party by the force of such marriage shall be forfeited, and shall be secured under the direction of the court for the benefit of the innocent party or of the issue of the marriage or of any of them, in such manner as the said court shall think fit for the purpose of preventing the offending party from deriving any interest in any real or personal estate or pecuniary benefit from such marriage.

Penalty on making false declaration or giving false notice.

45. (a) Any person who shall knowingly or wilfully make any false declaration or sign any false notice required by this Ordinance for the purpose of procuring the registration of any marriage, and

(3) If both the contracting parties shall in the judgment of the court be guilty of any such offence as aforesaid, it shall be lawful for the court to settle and secure such property or any part thereof immediately for the benefit of the issue of such marriage, subject to such provision for the offending party by way of maintenance or otherwise as the court may think fit.

(b) every person who shall forbid the granting by any registrar of a certificate for marriage by falsely representing himself or herself to be a person whose consent to such marriage is required by law, knowing such representation to be false,

(4) The order of the Family Court shall be subject to appeal to the Court of Appeal.

shall be guilty of the offence of giving false evidence under Chapter XI of the Penal Code, and be liable to the penalties therein prescribed,

48. All agreements, settlements, and deeds entered into or executed by the parties to any such marriage in contemplation of, or before, or after, or in relation to, such marriage shall be absolutely void, and have no force or effect so far as the same shall be inconsistent with the provisions of the security and settlement made by the court as aforesaid.

Settlements and agreements in regard to such marriage void.

Circumstances in which a marriage will be null and void.

46. If both the parties to any marriage shall knowingly and wilfully intermarry under the provisions of this Ordinance in any place other than that prescribed by this Ordinance, or under a false name or names, or except in cases of death-bed marriages under section 40, without certificate of notice duly issued, or shall knowingly or wilfully consent to or acquiesce in the solemnization of the marriage by a person who is not authorized to solemnize the marriage, the marriage of such parties shall be null and void.

49. (1) The Registrar-General, District Registrars, registrars, and ministers, shall keep books for the purposes of this Ordinance, in such form as is prescribed by or under this Ordinance, and shall carefully preserve such books, and shall at no time allow such books or other documents kept under this Ordinance to remain out of their possession, except in obedience to an order of a competent court, or except as provided in this Ordinance, or by any rules made thereunder.

Books to be kept by the Registrar-General, District Registrar, &c.

Solemnization of marriage by means of a false document.

47. (1) If any valid marriage shall be had under this Ordinance by means of any wilfully false notice, certificate, or declaration made by either party to such marriage as to any matter to which a notice, certificate, or declaration is required, it shall be competent for the proper Family Court to inquire therein, upon the application of either of the parties, or, if the marriage shall have been had without the consent of the person whose consent was by law required, upon the application of such person or of the Attorney-General.

(2) Every registrar and every minister of a registered place of worship shall, when called upon by the Registrar-General or by the District Registrar within whose district such registrar's division or such registered place of worship is situated, produce for

inspection all books, documents, and papers kept under this Ordinance which are in his possession as such registrar or minister.

(3) As each book of registers is completed by a registrar, he shall forward it, with all connected books, documents, and papers, to the District Registrar, who shall preserve them in his office.

Forms.

50. (1) The forms in the First Schedule to this Ordinance, or forms resembling the same, shall be used in all cases in which they are applicable, and when so used shall be valid in law.

(2) The Minister, by rule made under section 7, may alter from time to time all or any of the forms contained in the First Schedule to this Ordinance, or in any rule made thereunder, in such manner as may appear to him best for carrying into effect this Ordinance, or may prescribe new forms for that purpose.

(3) Every form when altered in pursuance of this section shall have the same effect as if it had been contained in the First Schedule to this Ordinance.

Search of registers and issue of certified copies or extracts.

51. (1) Any person shall be entitled, on making a written application to the Registrar-General, District Registrar, or registrar, and under such conditions and on the payment of such fees as shall be prescribed by the Minister, to refer to any book or document in the possession of such Registrar-General, District Registrar, or registrar, and kept under this Ordinance or under any enactment heretofore enacted relating to the registration of marriages, and to demand, on payment of such fees as the Minister may prescribe, a certified copy of or extract from every entry in such book or document.

[§5, Law 41 of 1975.]

(2) The applicant shall supply in respect of every written application and in respect of every certified copy or certified extract thereof a stamp or stamps of such value, as may from time to time be prescribed.

Third copy, certified copy or extract to be prima facie evidence. [§5, Law 41 of 1975.]

52. Such copy or extract if purporting to be made under the hand of the Registrar-General or the District Registrar or an Additional District Registrar or under the hand of the registrar or the third copy

issued under section 35A shall be received as prima facie evidence of the matter to which it relates, without any further or other proof of such entry.

53. In every case in which a registrar shall cease to hold office, all the books, documents, papers, and other articles in his possession as such registrar shall be delivered by him or by his legal representative as soon as conveniently may be, with a list thereof to the District Registrar who shall carefully arrange and preserve them in his office, save and except the incomplete books which were in actual use by the registrar at the time he ceased to hold office, and which shall be delivered by the District Registrar to the successor in office of the registrar.

Surrender of records on registrar ceasing to hold office.

54. Notwithstanding anything to the contrary in this Ordinance, any District Registrar may cause any of the following documents, that is to say :—

Destruction of documents.

- (1) any notice referred to in section 23,
- (2) any marriage notice book referred to in section 25,
- (3) any certificate referred to in section 26.
- (4) any licence or declaration referred to in section 27,
- (5) any application or licence referred to in section 38,

which is forwarded or delivered to him in accordance with the provisions of this Ordinance, to be destroyed after a period of ten years from the date on which the document was received by him.

55. If any person being, by virtue of his office as registrar or otherwise, in possession of books, documents, papers, and other articles specified in section 53, shall fail, neglect, or refuse to deliver them to the District Registrar, he shall be guilty of an offence punishable with simple or rigorous imprisonment for any term not exceeding two years, or with fine not exceeding one thousand rupees, or with both.

Penalty for non-delivery.

Penalty for losing or injuring a document.

56. Every person having the custody of any book or document made under this Ordinance, or certified copy of such book or document or of any part thereof, who shall carelessly lose or injure the same, or carelessly allow the same to be injured while in his keeping, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees, or with simple or rigorous imprisonment for a term not exceeding three months or with both such fine and such imprisonment.

Penalty for destruction of documents and for giving false certificates.

57. Every person who—

- (a) shall, save as provided in section 54, knowingly and wilfully tear, deface, destroy, or injure any notice, certificate, declaration, book, or any document whatsoever kept under this Ordinance, or under any enactment previously in force, or any part of such document or of certified copy thereof or of part thereof; or
- (b) shall knowingly and wilfully insert therein any false entry of any matter relating to any marriage or intended marriage; or
- (c) shall sign or issue any false certificate relating thereto; or
- (d) shall certify any writing to be a copy or extract of any such book or document, knowing such book or document to be false in any particular,

shall be guilty of an offence punishable with imprisonment, simple or rigorous, for a term not exceeding seven years, and with a fine not exceeding one thousand rupees.

Penalty for omission to register.

58. Every registrar who without reasonable cause refuses or omits to register a marriage, or to accept or enter a notice of marriage, or any particulars concerning which information has been tendered to him, and which he ought to accept and enter, shall be liable to a fine not exceeding one hundred rupees.

59. Any minister—

Offences by minister.

- (a) by or before whom, except in the case of a death-bed marriage under section 40, shall be solemnized a marriage before the delivery to him of the certificate or certificates required by this Ordinance ; or
- (b) who shall fail to enter duly in the marriage register the statement of a marriage on the day in which it was solemnized by him, or to transmit within seven days from the date of the solemnization of the marriage the duplicate statement of the marriage to the District Registrar; or
- (c) who shall enter in the marriage register any marriage not solemnized in accordance with the provisions of this Ordinance; or
- (d) who shall fail to perform any act required of him by this Ordinance; or
- (e) who shall perform any act forbidden or declared unlawful by this Ordinance,

shall be guilty of an offence punishable by a fine not exceeding one hundred rupees.

60. (a) Any person who shall knowingly and wilfully solemnize or pretend to solemnize a marriage not being legally competent to do so, or between parties not legally competent to contract the same, or, except in case of a death-bed marriage under section 40, before the issue of the certificate or certificates required by this Ordinance, or in any place or at any time not authorized by the provisions of this Ordinance, or who shall knowingly and wilfully solemnize a marriage declared to be not valid or to be null and void by this Ordinance; and

Undue solemnization of marriage and issue of certificate.

- (b) any registrar who shall knowingly and wilfully issue a certificate before or after the expiration of the prescribed period, or, if the marriage shall have been

forbidden or a caveat entered under this Ordinance, before the disposal of such objection by a competent court; and

- (c) any registrar or minister who shall knowingly disobey any direction of the law as to the way in which he is to conduct himself, intending to cause or knowing it to be likely to cause injury to any person or to the Government,

shall be guilty of an offence, and punishable with imprisonment, simple or rigorous, for any term not exceeding two years, or with a fine not exceeding one thousand rupees, or with both.

Notices, informations, declarations, certificates, &c., how transmitted.

61. All notices, informations, declarations, certificates, requisitions, returns, and other documents required or authorized by this Ordinance to be delivered, sent, or given to or by the Registrar-General, or a District Registrar, or a registrar, or a minister, may be sent by post (according to the prescribed rules of the Department of Posts) either in a prepaid letter or free on State service, and the date at which they would be delivered to the person to whom they are sent in the ordinary course of post shall be deemed to be the date at which they were received; and in proving such receipt it shall be sufficient to prove that the letter was prepaid, or (if it be a letter that might according to the rules of the Department of Posts be sent free on State service) sent free on State service, and that it was properly addressed and put into the post.

Fees payable. [§ 49, 11 of 1963.]

62. (1) Subject to the provisions of section 34, the fees enumerated in the Second Schedule shall be payable by and to the persons therein mentioned and for the duties therein specified. In default of payment of such fee, the person to whom it is payable shall, subject to the prescribed rules, refuse, until payment, to perform the duty for which such fee is payable.

(2) In addition to the fees payable under subsection (1), whenever a registrar enters a notice of marriage or solemnizes a marriage

at any place other than his office, there shall be paid to him by the person requiring him to enter such notice or solemnize such marriage as expenses incurred by him in travelling from his residence to such place and returning, from such place to his residence, a sum equal to the fare that would be payable, under any law for the time being in force in the area for a motor cab in respect of a journey of the same length and duration, and if there is no such law for the time being in force in that area, then a sum calculated at such rate as may be prescribed.

63. All proceedings in a Court of Justice under this Ordinance shall be exempt from stamp duty unless otherwise specially provided.

Proceedings in courts to be exempt from stamp duty.

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

Interpretation.

" district " means administrative district;

" District Registrar " in any section (other than section 8 or section 9) in which any power, duty or function of that officer is prescribed or referred to, includes an Additional District Registrar;

" marriage " means any marriage, save and except marriages contracted under and by virtue of the Kandyan Marriage Ordinance, 1870,* or the Kandyan Marriage and Divorce Act, and except marriages contracted between persons professing Islam;

" minister " means any person ordained or set apart for the ministry of the Christian religion according to the customs, rules, ceremonies, or rites of the church, denomination, or body to which such person belongs;

"prescribed" means prescribed by rule made under section 7.

" Registrar-General " includes a Deputy Registrar-General

[§§2 and 3, Law 23 of 1978.]

* Repealed by Act No. 44 of 1952.

FIRST SCHEDULE

Form A

APPLICATION BY MINISTER, OR PROPRIETOR, OR TRUSTEE TO REGISTER A PLACE OF PUBLIC WORSHIP FOR THE SOLEMNIZATION OF MARRIAGES, WITH DECLARATION BY HOUSEHOLDERS [Section 10 (2).]

To the Registrar-General.

I,, Minister (or Proprietor, or Trustee) of the under-mentioned building, certify that it is used as a place of public Christian worship, and I hereby apply to have it registered for the solemnization of marriages.

Description	Situation		District	Religious Denomination on whose behalf the Building is to be registered
	Village or Street and Division of Town	Pattu, Korale, or other Division of the District		

Witness my hand at, this day of, 19

Minister, or Proprietor, or Trustee.

Declaration

We, the undersigned householders residing in, in the of the District, hereby declare that we intend to frequent the above-described building as a place of public Christian worship.*

Dated at, this day of, 19

Countersigned by

Signed :

Proprietor or Trustee.

Signed :

Householders.

* If application be made under section 11, add : " and that the population in the district is so scattered that it is difficult to procure the signatures of twenty householders ".

FormB

[Section 10
(3).]

CERTIFICATE OF REGISTRY OF BUILDING FOR THE SOLEMNIZATION OF MARRIAGES

No. of Certificate :—

In pursuance of the application and declaration made under section 10 of the Marriage Registration Ordinance, I hereby certify that the building, used as a place of public Christian worship, described below, has been duly registered for the solemnization of marriages.*

Description	Situation		District	Proprietors or Trustees	Religious Denomination on whose behalf the Building is registered
	Village or Street and Division of Town	Pattu, Korate, or other Division of the District			

Witness my hand at.....this.....day of.....,19.....

Registrar-General.

* In certificates of substitution add : " in lieu of the building registered under certificate No..... of the day of 19, which is no longer used for the public worship of the congregation on whose behalf it was registered ".

[Section 12.]

Form C

I do hereby declare that the under-mentioned building has ceased to be used for public Christian worship of the congregation on whose behalf it was registered.

Witness my hand at.....this.....day of.....,19.....

Minister, or Proprietor, or Trustee.

Description	Situation		District	Number and Date of Certificate of Registry	Name of Proprietor or Trustee in whose name registered	Religious Denomination on whose behalf registered
	Village or Street and Division of Town	Patlu, Korale, or other Division of the District				

MARRIAGES (GENERAL)

[Cap. 131]

Form D

NOTICE OF MARRIAGE

[Section 24.]

To the Registrar of Marriages of the division of in the District of

I, the undersigned,, hereby give you notice that a marriage is intended to be had at,* within three calendar months from the date hereof, between me and the other party herein named and described, that is to say—

1 Name in full of each Party	2 Civil Condition †	3 Race and Rank or Profession	4 Age last birthday	5 Dwelling Place	6 Division and District	7 Length of Residence in Division	8 Father's Name in full, and Rank or Profession	9 Consent, if any, by whom given ‡	10 Signature of the person, or reference to the document, giving consent

1. And I hereby solemnly declare that to the best of my knowledge and belief the several particulars stated in the above notice are true and correct, and that there is no impediment of kindred or alliance or other lawful hindrance to the said marriage.

2. And I further declare that I am not a minor under the age of twenty-one years, and that the other party herein named and described is not a minor under the age of twenty-one years (or as the case may be).

3. And I further declare that I and (if the case be so) the other party herein named, for the space ofdays immediately preceding the giving of this notice, had my or our (as the case may be) usual place of abode and residence within the above-mentioned division of

4. And I further declare that the consent of the person or persons named in column 9 above, and whose consent to the said marriage is required by law, has been duly given; or (if the case be so) that both I and the other party herein named being majors, no such consent is required to the said marriage.

5. And I make the foregoing declaration, solemnly and sincerely believing the same to be true, pursuant to the provisions of the Marriage Registration Ordinance, well knowing that every person who shall knowingly or wilfully make and sign or subscribe any false declaration, or who shall sign any false notice for the purpose of procuring any marriage under the provisions of the said Ordinance, shall suffer the penalties of giving false evidence under Chapter XI of the Penal Code.

In witness whereof I have hereunto set and subscribed my hand at/ **at the Registrar's Office atthis day of, 19, in the presence of the following witnesses and attesting officer :

(Signature)

Full Names	Rank or Profession	Place of Residence	Signature	Certificate of Registrar, Justice of the Peace, Minister, or Notary
Attesting Witnesses.	1			I,, of §, Registrar of Marriages of, (or Justice of the Peace, or Minister or Notary Public) certify that the party who has given the above notice of his (or her) intended marriage is known to me (or not known to me, as the case may be), and that the witnesses§§ who are known to me have declared to me that they are personally acquainted with the said party.
			 Attesting Officer.

* Here insert the name of church, registrar's office, or other place where the marriage is to be solemnized.
 † I.e., e.g., bachelor or widower, spinster or widow. In the case of divorced persons—(a) the man's condition should be described in this manner—The divorced husband of, formerly, spinster (or "widow", as the case may be); (b) the woman's condition should be described in this manner—The divorced wife of

‡ Here insert the name and capacity of person giving consent.
 § Here state the postal town.
 §§ Where the party giving notice is known to the attesting officer, the words "who are known to me" should be deleted.
 ** Delete whichever is inapplicable.

Form E

[Section 25.]

MARRIAGE NOTICE BOOK OF THE DIVISION OF IN THE DISTRICT OF

1	2	3	4	5	6	7	8	9	10	11	12
No.	Date of giving of Notice	Names of the Parties	Civil Condition	Race and Rank or Profession	Age	Dwelling Place	Consent, if any, by whom given	If the Notice was attested by the Registrar, state whether it was attested at his Office or outside	Date of Issue of Certificate	Remarks	Signature of Registrar

Form F

[Section 26.]

REGISTRAR'S CERTIFICATE

I,, Registrar of Marriages of the division of, do hereby certify that on the day of, 19, notice was duly entered in the Marriage Notice Book of the said division of the marriage intended between the parties herein named and described, delivered under the hand of, one of the parties, that is to say—

Names in full of the Parties	Civil Condition	Race and Rank or Profession	Age in Years	Dwelling Place	Father's Name and Surname	Rank or Profession of Father

I further certify that the issue of this certificate has not been forbidden by any person authorized to forbid the issue thereof [and that the full period of twelve days has elapsed since the entry of the notice given to me and of the notice given to the Registrar of]*.

Witness my hand this day of, 19

.....
Registrar.

Except in the case of a marriage to be solemnized in the United Kingdom of Great Britain and Northern Ireland this certificate† will be void unless the marriage is solemnized on or before the day of, 19

* Where the issue of the certificate is authorized by licence, substitute for the words within brackets the following words: "and is authorized by licence of the District Registrar."

† Where the parties have given notice to two different registrars, the three months after which the notice becomes void should be reckoned from the day on which the earlier notice was entered.

MARRIAGES (GENERAL)

[Cap. 131

FormG

LICENCE FOR ISSUE OF REGISTRAR'S CERTIFICATE

[Section 27
(1)-]

Whereas on the day of,19....., notice was given to the •Registrar of Marriages of the division of f within the District of which I am the District Registrar/for which I am an Additional District Registrar, of a marriage intended to be had between and therein mentioned, and the said desires to obtain a licence for the immediate issue of a certificate of such notice, and has made before the District Registrar of the District (or an Additional District Registrar for the District) the declaration required for that purpose by subsection (3) of section 27 of the Marriage Registration Ordinance :

Now, therefore, in pursuance of the provisions of the said Ordinance, I do hereby authorize the said registrar to issue the said certificate at any time hereafter, and within three calendar months of the said day of 19

Given under my hand this day of,19.....

District Registrar,
or Additional District Registrar.

* Where the notice has been given to the District Registrar or to an Additional District Registrar, substitute " to the District Registrar of theDistrict" or "to an Additional District Registrar for the -District ", as the case may be.

/ Strike out the words which are inapplicable.

FormH

LICENCE FOR ISSUE OF REGISTRAR'S CERTIFICATE

[Section 27
(2)-]

Whereas in pursuance of section 23 of the Marriage Registration Ordinance on the day of 19 notice was given to Registrar of Marriages of the division of of a marriage intended to be had between and therein mentioned, and a like notice on the day of 19, was given to Registrar of Marriages of the division of

And the said desires to obtain a licence for the immediate issue of a certificate, and has made before the District Registrar of the District (or an Additional District Registrar for the District) the declaration required for that purpose by subsection (3) of section 27 of the said Ordinance:

Now, therefore, in pursuance of the provisions of the said Ordinance, I do hereby authorize the Registrar of the division of to issue a certificate of the notice given to him at any time hereafter, and within three calendar months of the said day of 19

Given under my hand this day of 19

District Registrar,
or Additional District Registrar.

MARRIAGES (GENERAL)

Form I

[Section 29.]

NOTICE FORBIDDING ISSUE OF CERTIFICATE

To the Registrar of Marriages of.....

Take notice that I, A. B. of Colombo, being father (or mpther, or lawfully appointed guardian) of C. D. of Colombo, do hereby, under section 29 of the Marriage Registration Ordinance, forbid the issue of a certificate for the solemnization of the marriage intended to be had between him (or her) and E. F., of Colombo, as the said C. D. is under iweniy-one years of age, and has not obtained my consent to the said marriage as required by section 22 of the aforesaid Ordinance.

Dated at.....,this.....day of.....19

Witnesses:

(Signature)

Form J

[Section 30.]

CAVEAT FORBIDDING ISSUE OF CERTIFICATE

To the Registrar of Marriages of the division of Colombo.

I, A. B. of Colombo, do hereby enter a caveat against the grant of certificate for the marriage intended to be had between C. D., of Colombo, and E. F., of Colombo, the parties named in the notice entered in the Marriage Notice Book of the division of Colombo on the on the ground (here state ground).

Signed a.....,this.....day of.....19....., in the presence of:

- (1) Witness:.....
(2) Witness:.....
(3) Registrar:.....

A. B.

FormK

[Section 31.]

REPORT BY THE REGISTRAR TO THE JUDGE OF THE FAMILY COURT WHEN ISSUE OF CERTIFICATE is FORBIDDEN

To..... the Judge of the Family Court of.....

A. B., of Colombo, having entered a caveat (or delivered a notice), of which copy is annexed, forbidding the issue of the certificate for the marriage intended to be had between C. D., of Colombo, and E. F., of Katutara, the parties named in the annexed copy of notice duly entered in the Marriage Notice Book on the I, G. H; Registrar of Marriages for the division of Colombo, do hereby apply to you for adjudication and decision thereon, as provided by section 31 of the Marriage Registration Ordinance.

Dated at.....,this.....day of.....,19.....

G.H., Registrar.

(Hereto annex a certified copy of the notice of the intended marriage and of the notice or caveat forbidding issue of certificate.)

MARRIAGES (GENERAL)

[Cap. 131

Form L

REGISTER OF MARRIAGE SOLEMNIZED BY OR IN THE PRESENCE OF A MINISTER

[Section 34 (2).]

No:

Names in full of Parties	Age	Civil Condition	Race and Rank or Profession	Residence	Father's Name in full	Rank or Profession of Father	Name and Division of Registrar upon whose Certificate the Marriage was solemnized	Place of solemnization of Marriage

Solemnized by me (or in my presence) this day of, 19

.....
Minister.

This marriage was solemnized between us (signatures of parties) in the presence of :

1. Name in full, residence, and rank or profession of witness :

Signature of Witness :

2. Name in full, residence, and rank or profession of witness :

Signature of Witness :

Signed before me,,
Minister.

Form M

REGISTER OF MARRIAGE IN THE DIVISION OF THE DISTRICT

[Sections 34 (6) and 35 (5).]
[§11, 34 of 1946.]

	Male Party	Female Party
1. Names in full of parties		
2. Age		
3. Civil condition		
4. Rank or profession and race		
5. Residence		
6. Father's full name		
7. Rank or profession of father		
8. Name and division of registrar who issued certificate		
9. Place of solemnization of marriage		

Solemnized by me (or in my presence) this day of, 19

.....
Registrar or Minister.

This marriage was solemnized between us....., in the presence of:

- 1 Signature of witness:.....
- 2 Name in full, rank or profession, and residence of witness :.....

- 1Signature of witness :
- 2Name in full, rank or profession, and residence of witness :.....

Signed before me,.....
Registrar or Minister.

» I certify that the above is a true copy of the statement No. furnished to me under section 34 of the Marriage Registration Ordinance, of a marriage solemnized by or in the presence of minister.

Date of entry in District Registrar's Register:.....

Registrar.

* To be filled up only when entering a marriage solemnized by or in the presence of a minister.

(Section 62.]
[§5, Law 41 of
1975.]

SECOND SCHEDULE

Payable to whom	For what duty	Payable by whom	Amount Rs. c.
Registrar . .	Entering a notice of marriage at his office	Applicant . .	0 50
Do. . .	Entering a notice of marriage at any other place	do. . .	2 50
Do. . .	Issuing certificate of notice of marriage	do. . .	0 50
Do. . .	For every marriage solemnized in his office	Parties to marriage	11 50
Do. . .	For every marriage solemnized outside his office under section 38 (1)	do. ...	5 00
District Registrar . .	For every marriage solemnized outside his office under section 38 (2)	do. . .	75 00
Additional District Registrar . .	do. . .	do. . .	50 00
Registrar . .	do. . .	do. . .	20 00
District Registrar	Registration of marriage solemnized in a registered place of public worship	do. . .	11 50

CHAPTER 235

MASTERS ATTENDANT*

AN ORDINANCE TO DECLARE THE DUTIES OF MASTERS ATTENDANT, AND TO PROVIDE FOR THE BETTER PRESERVATION OF THE PORTS OF SRI LANKA AND FOR THE BETTER REGULATION OF THE SHIPPING THEREIN.

Ordinances
Nos. 6 of 1865,
3 of 1883,
6 of 1896,
4 of 1899,
10 of 1904,
20 of 1905,
14 of 1907,
30 of 1908,
19 of 1924,

Act
No. 27 of 1955.

[20th October. 1865.]

PRELIMINARY

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

Minister to declare ports to be brought under the Ordinance, and to define and vary their limits. **2.** The Minister may, from time to time, declare by Order the ports which are to be brought within the operation of this Ordinance, and may define the limits of such ports respectively; and it shall be lawful for the Minister, in like manner, to alter and amend such limits.

Port rules. **3.** The Minister may, from time to time, frame and establish such port rules, not inconsistent with this Ordinance, as he may think necessary for any of the following purposes, namely:—

- (a) for regulating the time at which, and the manner in which, vessels shall enter into or go out of any port subject to this Ordinance;
- (b) for regulating the berths and stations to be occupied by vessels in any such port;
- (c) for striking the yards and topmasts, and for rigging in the jib and driver booms, of vessels in any such port, whenever it may be proper so to do;
- (d) for the removal or proper hanging or placing of anchors, spars, and

other things in or attached to vessels in any such port ;

- (e) for regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged;
- (f) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same, and for marking out the spaces so to be kept free;
- (g) for regulating the anchoring, fastening, mooring, and unmooring of vessels in any such port;
- (h) for regulating the mooring and warping of all vessels within any such port, and the use of warps therein;
- (i) for regulating the use of the mooring buoys, chains, and other moorings in any such port ;

* All references in this Ordinance to Master Attendant shall be read as a reference to the Ports Authority in its application to any " specified port ", within the meaning of section 2 of the Sri Lanka Ports Authority Act—See section 86 (3) thereof.

- (j) for fixing from time to time the charges to be made for boat hire which may be demanded by boats licensed to convey goods and passengers in the said ports; the rates and charges of pilotage on vessels into and out of any of the said ports, from or to a distance of one league out at sea; or for removing or re-mooring any vessel; and the rates to be paid for the use of Government moorings, whenever the same shall be available, and the charges for work connected with mooring of the said vessels;
- (k) for regulating boats plying for the conveyance of passengers or goods within such port, whether for hire or otherwise;
- (l) for regulating bumboats, and all boats used by traders, hawkers, and others for the conveyance of goods for sale in any such port;
- (m) for maintaining good order on jetties and landing-places, for prohibiting the same from being frequented by loiterers or undesirable persons, and for preventing the commission of nuisances thereon;
- (n) for providing for the periodical inspection of steam boilers on water boats, barges, lighters, and similar vessels, and on launches as defined by the Launches Ordinance, and for prohibiting the use of such steam boilers, unless the same have been duly inspected and certified to be in good order. Such rules may prescribe a fee for the inspection of such steam boilers not exceeding twenty-one rupees for each inspection in the case of launches, and ten rupees and fifty cents in the case of other vessels;
- (o) for the issue of certificates of competency to the drivers and persons in charge of steam boilers on water boats, barges, lighters, and

similar vessels (not being launches as defined by the Launches Ordinance), and for prohibiting steam boilers on such vessels to be worked by or to be in charge of persons who do not hold certificates;

- (p) for regulating the use of fires and lights within any such port;
- (q) for regulating and enforcing the use of signals by vessels at night in any such port;
- (r) for prohibiting the collection or removal of any coal which may be washed ashore or found within the limits of any such port except by duly licensed persons, and for granting licences for the collection and removal of such coal;
- (s) for regulating all other matters necessary to provide in every respect for the preservation of the ports and the better regulation of the shipping therein, and not specially provided for by this Ordinance:

Provided that such port rules shall be published in the Gazette at least one month before the same shall take effect, and a copy and translation thereof in the vernacular languages of the district shall be fixed in some conspicuous place in the office of the Master Attendant of every port to which such order shall relate, and in the custom-house, if any, of every such port.

MASTERS ATTENDANT

4. The Master Attendant of any port subject to this Ordinance may, in respect of any vessel within such port, give directions for carrying into effect any port rule in force within such port.

Master Attendant may give directions for certain specific purposes.

5. If any person shall wilfully and without lawful excuse refuse or neglect to obey any lawful direction of the Master Attendant after notice thereof shall have been given to him, such person shall for every such offence be liable to a fine not

Penalties For disobedience to orders of Master Attendant.

exceeding fifty rupees, and a further sum not exceeding fifty rupees for every day on which he shall wilfully continue to disobey such direction ; and in case of such refusal or neglect it shall be lawful for the Master Attendant to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose ; and all reasonable expenses which shall be incurred in doing such acts shall be paid and borne by the persons so offending. Any written notice of a direction given under this Ordinance, which shall be left for the master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall for the purposes of this Ordinance be deemed to have been given to the master thereof.

Master Attendant to appoint place for anchorage.

6. (1) Whenever any vessel shall arrive within any port of Sri Lanka brought within the operation of this Ordinance, the Master Attendant of such port or any person authorized by him either generally or on a special occasion is hereby authorized and required to appoint the place where the same shall cast anchor, or be moored, or otherwise secured, and to direct the master or person in charge of such vessel to anchor, moor, or otherwise secure his vessel at such a place, or himself to cause it to be anchored, moored, or otherwise secured there.

(2) Such Master Attendant or authorized person as aforesaid shall at all times have full power and authority to board any such vessel and to remove or cause the removal of the same from one place of mooring or anchorage to another when he shall consider such removal expedient.

(3) If the master or person in charge of any such vessel shall be desirous of moving the same from one place of mooring or anchorage to another, such master or person in charge is hereby required to notify to the Master Attendant such his desire, and the Master Attendant shall, unless he see good and sufficient reason to the contrary, authorize the removal thereof by such master or person in charge, or shall himself remove it or cause its removal.

(4) If any master or person in charge of any such vessel or any other person shall neglect or disobey any lawful direction of the Master Attendant or of any person authorized as aforesaid, or shall offer any resistance or impediment to such Master Attendant or authorized person or to any person acting under the orders of such Master Attendant or authorized person in the execution of any duty or authority herein imposed upon or vested in or delegated to such Master Attendant or authorized person, or shall change the mooring or anchoring of any such vessel without the authority of the Master Attendant, every such master or person shall be guilty of an offence, and be liable to any fine not exceeding two hundred rupees.

7. The Master Attendant may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Ordinance, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Ordinance, go on board any vessel within the limits of any port. If the master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any Master Attendant or any of his deputies or assistants to enter such vessel for the performance of any duty imposed upon him by this Ordinance, he shall for every such offence be liable to a fine not exceeding two hundred rupees.

Master Attendant may go on board any vessel in discharge of his duty.

8. The Master Attendant shall render assistance to vessels in distress within sight of the port by every means in his power.

Master Attendant to give assistance to ships in distress.

9. Whenever the passage of boats to or from any vessels at anchor in any port shall become dangerous, the Master Attendant shall hoist a white flag with a red ball in the centre in some conspicuous place, and shall keep the same so hoisted as long as such danger shall continue ; and if any master or person in charge of a vessel or other person shall, after such signal shall have been made, prevent any boat which may be alongside of any vessel from returning ashore, every such master or person shall be guilty of an offence, and be liable to a fine not exceeding one hundred rupees; and the

Flag to be hoisted when passage to or from ships dangerous.

remuneration to be made in respect of any boat returning under such circumstances shall be determined by the Master Attendant, and shall not thereafter be questioned.

10. The Master Attendant may remove or cause to be removed any timber or raft floating or being in any part of any such port which shall impede the free navigation of such port; or anything which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring or other work, or any part of the shore or bank which has been declared to be within the limits of such port, and which is not private property ; and the owner of any such timber or raft, or other thing, shall be liable to pay the reasonable expenses of such removal.

11. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any port subject to this Ordinance, or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding one hundred rupees, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment, and the Master Attendant of the port may cause such nuisance, obstruction, or impediment to be abated and removed.

12. If any vessel shall be wrecked, stranded, or sunk in any such port, so as to impede or to be likely to impede the navigation thereof, the Master Attendant may cause the same to be raised, removed, or destroyed , and unless the expense of Such work shall be repaid within one month after the completion thereof, he shall recover the same in the manner provided in section 13 of this Ordinance.

13. If the Master Attendant shall incur any expense in causing any obstruction, impediment, wreck, or nuisance to be removed, and such expense be not paid within one week after the same shall have been notified in the Gazette, or in such other manner as the Minister by any general or special order may direct, such expense certified to by the Master Attendant, and

reported to the Magistrate's Court of the judicial division, may be recovered in the same manner as any fine imposed by that court. The Master Attendant may, in addition to or exclusive of such remedy, cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale, and shall pay the surplus of such proceeds or deliver so much of the timber and other materials as shall remain unsold to the owner or other person entitled to receive the same, and if no such person appear shall cause the same to be kept and deposited in such manner as the Minister may direct, and may, if necessary, from time to time realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

LICENSED BOATS

14. No boat of any kind shall, within any port subject to this Ordinance, ply, whether for hire or otherwise, for the conveyance of passengers or goods between vessels in port and the shore, or as a bumboat, or as a boat for the conveyance of traders, hawkers, or of goods for sale, or for landing or shipping any cargo or goods, and no person shall act as tindal thereof, unless such boat and tindal shall be licensed for that purpose, by licence under the hand of the Master Attendant of the port, such licence to be issued and recalled or taken away in case of any misconduct by the owner, tindal, or any of the boatmen thereof, at the discretion of Such Master Attendant, or (in the case of cargo boats and their tindals) of the Collector of Customs; and such licence shall be in force for such period as may be expressed therein, unless previous to the expiration thereof the same shall be recalled or taken away as aforesaid, and shall specify the burden and description of the boat and (if a passenger boat) the number of passengers that may be conveyed therein at one time, the name of the owner and the tindal thereof, and the number of boatmen to be employed in the same, and all licences shall be registered in the offices of the Master Attendant at each

Passenger and cargo boats to be licensed.

Any floating timber &c. or obstruction on shore, to be removed at expense of owner.

Penalties for causing obstruction or public nuisance.

Master Attendant may raise any wreck impeding navigation.

Expenses of removal.

port respectively; and such licence shall be on a stamp of three rupees, to be paid by the owner of the boat and tindal respectively:

Provided, however, that it shall be lawful for vessels in landing or shipping passengers or cargo or goods to make use of their own boats;

Provided further, that where a Master Attendant refuses granting a licence to any person applying for the same, or recalls the licence after it is issued, he shall with all convenient despatch report such refusal or recalling to the Minister by whom the same shall and may be confirmed or reversed.

15. All owners of boats, tindals, and boatmen of licensed boats shall obey the orders of the Master Attendant of the port, and no licensed boat shall be absent from the port without his leave ; and if the owner, tindal, or principal person of any licensed boat shall not so obey the said orders, or shall suffer his licensed boat to be absent from the port without leave as aforesaid, or if he, on any verbal or written notice being given to him by the Master Attendant of the port or any officer of his department ordering such boat to proceed on board any vessel, shall refuse or neglect to comply with such order, not being manifestly prevented therefrom by stress of weather, or if he shall, when so required to proceed, have fewer seamen on board his boat than the number specified in his licence, unless by permission of the Master Attendant, who may in such case at his discretion order a proportionate reduction of the charges payable for the hire of such boat, such owner, tindal, or principal person shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding one hundred rupees.

16. If any passengers or goods be landed from or shipped to any vessel in any of the said ports, in any boats, except in boats licensed as above mentioned, or in boats belonging to such vessel or after the expiration of the period mentioned in such licence, or after the same has been recalled, or contrary to the terms thereof, the owner, lindal, or person in charge of such boat shall be guilty of an offence, and be liable to

a fine not exceeding twenty rupees, and the said goods and the unlicensed boat in which they may have been landed or shipped shall be forfeited, and shall be dealt with in the same manner as goods declared to be forfeited or liable to forfeiture by the laws for the time being in force relating to the customs.

17. In landing the cargoes of vessels, each separate boatload shall be accompanied by a note, addressed to the Collector of Customs, specifying the number and description of the packages and the marks and numbers affixed thereon, or, if in bulk, the quantity, as far as can be ascertained, of the goods so sent:

Provided that it shall be lawful for the Minister by general or special directions to be by him for that purpose given to the Collector of Customs of any port, to allow any vessels or class of vessels to give boatnotes in any simpler form, if it be found inexpedient to require of them the fuller form above prescribed. In default of giving a note as required by this Ordinance, or by the directions of the Minister as aforesaid, the master or supercargo shall be deemed guilty of an offence, and be liable to a fine not exceeding one hundred rupees.

18. The owner of every boat shall paint or cause to be painted, and shall keep painted in white or yellow, in arabic figures not less than twelve inches in length on a black ground on a conspicuous part on both sides of the bow of such boat, in a legible and distinct manner, the number of such boat as mentioned in the licence; and the licence of such boat may be withheld until it is so marked.

19. Every licensed boat shall be kept well and completely dunnaged and seaworthy, and the Master Attendant shall, as often as he may think necessary, require the owners of licensed boats or any one or more of them to expose them in some convenient place for his inspection, and in case any owner shall neglect or refuse so to expose any boat belonging to him, and in case on any boat being so exposed the Master Attendant shall deem it unseaworthy, it shall be lawful for the Master Attendant to recall the licence.

Where specification of description, &c.. of packages necessary.

Number of boat to be painted thereon.

Licensed boat to be always kept seaworthy.

Penalty on tindals and boatmen of licensed boats for misconduct.

Penalty on employment of unlicensed boats.

Owners of licensed boats to keep two boats always ready for service in the night-time.

20. The owners of licensed boats shall keep and provide for service during the night, that is to say, from six o'clock in the afternoon until six o'clock in the morning, two full-sized boats with their proper crews, according to a course or rotation to be specified by the Master Attendant on the first day of every current month, and to be notified in writing on some conspicuous part of his office, as regards the particular nights for the attendance of particular boats; and every owner of such boat who shall fail to provide his boat properly manned, and in all respects fit for service, shall be guilty of an offence, and be liable on conviction thereof to any fine not exceeding fifty rupees.

MASTERS OF VESSELS

Penalty on throwing ballast, &c., overboard.

21. If any master or other person shall throw overboard from any vessel any stones or ballast or rubbish, or any other thing whatever likely to form a bank or shoal or to be detrimental to navigation within any of the said ports, except in such places as may be appointed for the purpose by the Master Attendant, and if any stones or ballast landed from any vessel on any wharf, quay, or other landing-place in any of the said ports or in any place prohibited by public notice in writing signed by the Collector and Master Attendant of the port, be not removed, within twenty-four hours after the same shall have been landed, to the depositories appointed by the Collector of Customs and Master Attendant of the port, the master or other persons so throwing overboard or landing such stones or ballast shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding two hundred rupees over and above any expenses which may be incurred in removing the same and which expenses shall be recovered in the manner provided in section 13 of this Ordinance.

Ship losing anchor to give notice to Master Attendant.

22. Whenever any vessel shall have lost any anchor or cable in any of the said ports, the master or person in charge thereof shall immediately give notice of such loss to the Master Attendant, together with the bearings of such anchor or cable, and a description of any marks on them by which they could be recognized when discovered :

Provided always that it shall at all times be lawful for such master or person in charge to sweep for, and fish up, and recover such anchor or cable at his own expense.

23. If any master or person in charge of a vessel in any of the said ports shall request the Master Attendant to recover any anchor or cable which he shall have lost at any place therein, or if information shall be given to the Master Attendant that any anchor or cable has been found in any of the said ports, or is known or reported to have been lost from any vessel therein, the Master Attendant shall use his best endeavours to recover such anchor or cable, and shall be entitled upon recovering the same to one-third of the value thereof; and if the Master Attendant shall at any time refuse or neglect for the period of one calendar month after such request being made or such information being given to use such endeavours as aforesaid, it shall be lawful for any other person or persons, at his or their own expense to sweep for, and fish up, and recover such anchor or cable, and such person or persons shall in like manner be entitled to one-third of the value of any anchor or cable so recovered by him or them:

When share of value of lost anchor to be paid to Master Attendant or other person recovering it.

Provided always that if any difference of opinion shall arise between the Master Attendant and the master or person in charge of any such vessel, or his agents, as to the value of any such anchor or cable, the point shall be referred to the Collector of Customs, and his decision shall be conclusive; and if any such difference shall arise between the master or person in charge of any ship or vessel, or his agents, and any other party or parties recovering such anchor or cable, the same shall be referred to the Master Attendant, whose decision shall be conclusive.

24. All anchors and cables which shall be recovered within any of the ports and by any person other than the person in charge of the vessel from which they are known to have been lost shall be landed at the wharf or place appointed for that purpose ; and if the same shall not be claimed within the period of twelve months they shall become the property of the State, and shall be sold by public auction. Two-thirds from the

Anchor not claimed within twelve months to become the property of the State.

proceeds shall go to the party or parties who recovered the said anchor and cable, and one-third to the State.

Penalty on master, person in charge of a vessel or other person offending against this Ordinance.

25. If any master or person in charge of a vessel or other person shall in any case fail or neglect to observe any lawful directions of the Master Attendant, or to do anything required of him by this Ordinance or by any port rule made under section 3 of this Ordinance, or shall do or omit to do anything contrary to the true and plain meaning of this Ordinance, or of any such port rule, or if any master or person in charge of any vessel or any other person shall interfere with any Master Attendant, or any of his deputies or officers, or any person acting under his authority, in the execution of his duty in regard to such vessel, so as to resist or impede him or them in the proper performance thereof, every such master or person in charge of a vessel, or other person, shall be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

Vessels not to obtain clearance until all charges are paid.

26. The officer of Government whose duty it shall be to grant a port clearance for any vessel shall not grant such port clearance until the owner, agent, or master of that vessel, or some other person, shall have paid all port dues, fees, and charges to which such vessel, or the owner or master of such vessel in respect thereof, shall be liable under this Ordinance or any other enactment.

Ordinance not to extend to vessels in the service of the Republic and to vessels of war belonging to any foreign state.

27. Nothing in this Ordinance contained shall extend to any vessel belonging to or in the service of the Republic, or to any vessel of war belonging to any foreign prince or state, nor affect any law relative to the customs, nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law.

MISCELLANEOUS

Removing stones, &c., or injuring shores, prohibited.

28. In every port subject to this Ordinance, to which the provisions of this section shall be extended by an Order of the Minister, no person, without the permission of the Master Attendant, shall remove or carry away any rock, stones, shingle, gravel, sand or soil, or any artificial protection from any part of the bank or shore of such

port; and no person shall sink, bury, or drive, in any part of such bank or shore, whether the same be public or private property, any mooring post, anchor, or any other thing which is likely to injure, or to be used so as to injure such bank or shore, except with the permission of the said Master Attendant, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this section, he shall be liable to a fine not exceeding one hundred rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such bank or shore, such expenses being recoverable in the manner provided in section 13 of this Ordinance.

29. (1) Where any damage to any harbour, dock, pier, quay or works connected therewith is done by any vessel or by any person employed in any vessel and acting in the course of his employment—

- (a) the owner of that vessel shall be liable, and
- (b) if that damage is done through the wilful act or the negligence of the master of that vessel, such master shall also be liable,

to pay to the Master Attendant the actual or estimated cost of repairing that damage :

Provided, however, that where such damage is done by any vessel while it is in the charge of a pilot appointed under the Pilots Ordinance and the owner of that vessel proves that such damage is due to the wilful act or the negligence of such pilot, such owner shall not be subject to the liability imposed by the preceding provisions of this subsection.

(2) Where the owner or master of any vessel incurs a liability under subsection (1), the Master Attendant may detain that vessel until sufficient security is given for the discharge of that liability.

Offences against this Ordinance, and debts due thereunder, to be respectively punishable and recoverable in Magistrates' Courts and Primary Courts.

30. All offences against this Ordinance shall and they are hereby declared to be fully cognizable and punishable by Magistrates' Courts, and all sums becoming due by reason of any of the provisions thereof shall and they are hereby declared to be recoverable before Primary Courts, though such offences and sums should exceed the ordinary jurisdiction of those courts.

Prohibition of diving for money.

31. (1) Whoever within any harbour, subject to the provisions of this Ordinance, dives for money thrown by passengers or others from vessels in harbour, shall be guilty of an offence, and shall be liable on conviction thereof to imprisonment of either description for a term not exceeding one month.

(2) Any police officer or peace officer may arrest and take before the Magistrate having jurisdiction any person found committing an offence against this section.

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

" boat " includes canoes and catamarans, and also launches propelled by steam, electricity, or other motive power;

" master ", when used in relation to any vessel, includes any person having for the time being the charge or command or control of such vessel;

" Master Attendant " includes his deputies and assistants;

" port " includes all harbours, roadsteads, and places of anchorage in Sri Lanka;

" vessel" includes anything made for the conveyance by water of human beings or of property.

CHAPTER 132

MARRIAGE AND DIVORCE (KANDYAN)

Acs
Nos. 44 of 1952,
34 of 1954,
22 of 1955,
Law
No. 41 of 1975.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO KANDYAN MARRIAGES AND DIVORCES, AND TO MAKE PROVISION FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[1st August. 1954.]

Short title.

1. This Act may be cited as the Kandyan Marriage and Divorce Act.

(a) the male party thereto is under the lawful age of marriage; or

Application of Act

2. The provisions of this Act shall not, unless otherwise expressly provided therein, apply to marriages contracted before the appointed date.

(b) the female party thereto is under the lawful age of marriage; or

Marriages between persons subject to Kandyan law.

3. (1) Subject to the provisions of this Act—

(c) the male and female parties thereto are both under the lawful age of marriage.

(a) a marriage, between persons subject to Kandyan law, shall be solemnized and registered under this Act or under the Marriage Registration Ordinance ; and -,

(2) Notwithstanding anything in subsection (1), a Kandyan marriage shall be deemed not to be or to have been invalid under that subsection by reason of one party and one party only thereto being, at the time of marriage, under the lawful age of marriage—

(b) any such marriage which is not so solemnized and registered shall be invalid.

(a) if both parties thereto cohabit as husband and wife, for a period of one year after the party aforesaid has attained the lawful age of marriage; or

(2) The fact that a marriage, between persons subject to Kandyan law, is solemnized and registered under the Marriage Registration Ordinance shall not affect the rights of such persons, or of other persons claiming title from or through such persons, to succeed to property under and in accordance with the Kandyan law.

(b) if a child is born of the marriage before the party aforesaid has attained the lawful age of marriage.

(3) Notwithstanding anything in subsection (1), a Kandyan marriage shall be deemed not to be or to have been invalid under that subsection by reason of both parties thereto being, at the time of marriage, under the lawful age of marriage.—

PART I

VALIDITY OF KANDYAN MARRIAGES AND LEGITIMIZATION OF ILLEGITIMATE CHILDREN

Lawful age of marriage.

4. (1) No Kandyan marriage shall be valid if, at the time of marriage—

(a) if both such parties cohabit as husband and wife for a period of one year after they both have attained the lawful age of marriage; or

(b) if a child is born of the marriage before both or either of them have attained the lawful age of marriage.

Prohibited degrees of relationship.

5. (1) No Kandyan marriage shall be valid—

(a) if either party thereto is directly descended from the other; or

(b) if the female party thereto is the sister of the male party thereto either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or the daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow; or

(c) if the male party thereto is the brother of the female party thereto either by the full or the half-blood, or the son of her brother or of her sister by the full or the half-blood, or a descendant from either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.

(2) No marriage or cohabitation shall take place between persons who, being subject to Kandyan law, stand towards each other in any of the degrees of relationship specified in paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section ; and in the event of any marriage or cohabitation between such persons, each such person shall be guilty of an offence under this Act.

Second marriage without legal dissolution of first marriage invalid.

6. No Kandyan marriage shall be valid—

(a) if one party thereto has contracted a prior marriage; and

(b) if the other party to such prior marriage is still living,

unless such prior marriage has been lawfully dissolved or declared void.

Legitimization of illegitimate children.

7. A valid Kandyan marriage shall render legitimate any children who may

have been procreated (whether before or after the appointed date) by the parties thereto previous to such marriage and children so legitimized shall be entitled to the same and the like rights as if they had been procreated by the parties thereto subsequent to such marriage.

PART II

CONSENT To MARRIAGE

8. (1) The consent of a competent authority is hereby required to the marriage under this Act of a minor subject to Kandyan law.

Consent required to marriage of minor.

(2) For the purposes of this Act, the expression " competent authority", in relation to a minor, means—

(a) the father of the minor; or.

(b) if the father is dead, or is under any legal incapacity, or is unable to give or refuse his consent by reason of absence from Sri Lanka, the mother of the minor; or

(c) if both the father and mother of the minor are dead, or are under any legal incapacity, or are unable to give or refuse consent by reason of absence from Sri Lanka, the guardian or guardians of the minor appointed by the father or, if the father is dead, or is under any legal incapacity, by the mother or, if the mother is dead, or is under any legal incapacity, by a competent court; or

(d) if both the father and mother of the minor are dead, or are under any legal incapacity, or are unable to give or refuse consent by reason of absence from Sri Lanka, and if further—

(i) no guardian or guardians of the minor has or have been appointed by the father, mother or a competent court; or

(ii) the guardian or guardians so appointed is or are dead, or is or are under any legal

incapacity, or is or are unable to give or refuse consent by reason of absence from Sri Lanka,

the District Registrar for the district in which the minor resides.

Authority to give or refuse consent.

9. Any competent authority whose consent to the marriage of a minor is required under the last preceding section may give or refuse such consent as to such authority may seem fit.

Consent of District Registrar.

10. (1) A District Registrar shall, if he is a competent authority in relation to a minor, entertain any application made under this section for his consent to the marriage of that minor under this Act.

(2) The application shall be made by means of a written petition either by the minor or by any other person "interested in the marriage of the minor.

(3) The petition shall bear a stamp or stamps of the prescribed value which shall be supplied by the applicant.

(4) The petition—

(a) shall be in the prescribed form;

(b) shall state the name and address of the applicant;

(c) shall state in what capacity he makes the application;

(d) shall, if the applicant is merely a person interested in the marriage of the minor, state the name and address of the minor;

(e) shall contain such other particulars as may be prescribed ; and

(f) shall be signed by the applicant.

(5) Upon the receipt of the petition, the District Registrar shall forthwith cause a notice to be served upon the applicant and, if the applicant is merely a person interested in the marriage of the minor, upon the minor.

(6) The notice-

(a) shall indicate that at a time and date specified in the notice the District Registrar will attend at his office or at such other place as may be specified therein for the purpose of disposing of such application; and

(b) shall call upon the person to whom the notice is addressed to appear before the Registrar along with his witnesses, if any, on the date and at the time and place so indicated.

(7) The District Registrar shall attend on the date and at the time and place indicated in the notice and shall dispose of the application after such summary inquiry as he may deem necessary either on that date or on any other date to which he may adjourn or postpone the inquiry. The Registrar shall communicate his decision in writing to the applicant and, if the applicant is merely a person interested in the marriage of the minor, to the minor.

(8) Before disposing of the application the District Registrar shall give the applicant and, if the applicant is merely a person interested in the marriage of the minor, the minor and their respective witnesses, if any, an opportunity of being heard.

(9) The District Registrar shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of the application.

11. (1) An appeal against the refusal of a competent authority to give his consent to the marriage of a minor under this Act shall lie to the District Court having jurisdiction in the area in which the minor resides. Appeals.

(2) The appeal shall be preferred by means of a written petition either by the minor or by any other person interested in the marriage of the minor:

Provided, however, that no appeal against the refusal to give his consent by a District Registrar in his capacity as a competent authority in relation to the minor may be preferred by any person who is merely a

person interested in the marriage of the minor unless the application for such consent was made by that person.

(3) The petition of appeal shall bear a stamp or stamps of the prescribed value which shall be supplied by the appellant.

- (4) The petition of appeal—
 - (a) shall be in the prescribed form;
 - (b) shall state the name and address of the appellant;
 - (c) shall state the name and address of the competent authority against whose decision the appeal is preferred;
 - (d) shall state in what capacity he makes the appeal;
 - (e) shall, if the appellant is merely a person interested in the marriage of the minor, state the name and address of such minor;
 - (f) shall contain such other particulars as may be prescribed ; and
 - (g) shall be signed by the appellant.

(5) Where an appeal is preferred under this section against the decision of a District Registrar in his capacity as a competent authority, the petition of appeal shall in the first instance be forwarded to that Registrar. Such Registrar shall forthwith, upon the receipt of the petition, forward it to the District Court along with the relevant record kept by him under section 10.

Power of court on appeals,

12. (1) Subject to the provisions of subsection (2), a District Court may, in its absolute discretion, on any appeal against the refusal of a competent authority to give his consent to the marriage of a minor under this Act, make order—

- (a) confirming the decision of such authority; or
- (b) setting aside that decision and consenting to the marriage.

(2) No order shall be made by a District Court under subsection (1) (b) of this section unless the court is satisfied that the refusal of a competent authority to consent to the marriage of a minor under this Act is unreasonable,

(3) The District Court shall cause a copy of the order to be served upon the appellant, the competent authority and, if the appellant is merely a person interested in the marriage of the minor, upon the minor.

(4) The decision of a District Court under this section on any appeal shall be final and conclusive and shall not be subject to appeal.

13. Before disposing of any appeal under this Part, a District Court shall give the parties thereto including the minor to whose marriage the appeal relates and their respective witnesses, if any, an opportunity of being heard.

Parties to be given an opportunity of being heard,

14. At the hearing of any appeal to a District Court under this Part, the procedure to be followed shall, save as hereinbefore provided and subject to any rules made by the Supreme Court for the purposes of this Act, be such as the court may direct either generally or in any particular case.

Procedure at hearing of appeals.

15. Where, on any appeal under this Part, a District Court makes order setting aside the decision of a competent authority and consenting to the marriage of a minor, the consent of that authority required by this Act for the marriage of that minor shall be deemed for all the purposes of this Act to have been given with effect from the date of the order.

Effect of order of court

PART III

REGISTRATION OF KANDYAN MARRIAGES

16. Every prospective Kandyan marriage shall be notified to the appropriate Registrar hereinafter specified by the service of notice thereof on such Registrar as hereinafter provided:—

Notice of prospective Kandyan marriage.

(1) Where both parties thereto have resided in the same division for a period of not less than ten days reckoned from the date of service of the notice, one party thereto shall serve notice thereof on the Divisional Registrar for that division or on the District Registrar for the district in which that division is situated.

(2) Where both parties thereto have resided in different divisions for the period referred to in paragraph (1) of this section, each party thereto shall serve notice thereof on the Divisional Registrar for the division in which that party so resided or on the District Registrar for the district in which that division is situated :

Provided that where both such divisions are situated in the same district, notice of the marriage shall, instead of being served by each party thereto on the District Registrar for that district under the preceding provisions of this section, be served by one such party on that District Registrar.

(3) Where only one party thereto has resided in any division for the period referred to in paragraph (1) of this section, that party shall serve notice thereof on the Divisional Registrar for that division or on the District Registrar for the district in which that division is situated.

(4) Where both parties thereto have not resided in any division for the period referred to in paragraph (1) of this section, one such party, being a party who has resided in a division for a period of not less than four days reckoned from the date of service of the notice, shall serve notice thereof on the Divisional Registrar for that division or on the District Registrar for the district in which that division is situated.

(5) In the event of the absence from Sri Lanka of one party thereto the other party may give notice thereof under paragraph (3) or paragraph (4) of this section in anticipation of the arrival in Sri Lanka of such party.

(6) The notice shall be substantially in the prescribed form, and—

(a) shall state—

(i) the name in full (including, if it is different, the name by which the party is commonly known), age, occupation or calling, civil condition (whether unmarried, widowed or divorced) and place of residence of each party thereto;

(ii) the nature of the marriage (whether in *binna* or *diga*); and

(iii) the length of residence of each party thereto in the district or division, as the case may be, of that Registrar;

(b) shall bear on its face or have attached thereto the written consent of any person whose consent to the marriage is required by this Act;

(c) shall contain a declaration made under paragraph (7) of this section and a certification by endorsement made under paragraph (9) of this section;

(d) shall bear a stamp or stamps of the prescribed value which shall be supplied by the party serving the notice; and

(e) shall be signed by that party.

(7) Before the notice is served on a Registrar by a party thereto, that party shall appear in person before the Registrar and, in the presence of the Registrar and two witnesses, make and subscribe a declaration to the following effect:—

(a) that to the best of that party's knowledge and belief the particulars stated in the notice are true and correct;

- (b) that there is no lawful impediment or other lawful hindrance to the marriage;
- (c) that neither party thereto is a minor or that both parties thereto are minors or that one party thereto is a minor; and
- (d) that the consent of any person thereto is required by this Act and that such consent has been obtained or that the consent of any person thereto is not required by this Act.

(8) The witnesses to the declaration shall be persons who are personally known to the party and, if the party is not known to the Registrar, to the Registrar. The name in full, occupation or calling and place of residence of each witness shall be entered at the foot of the declaration.

(9) After the declaration has been made and subscribed by a party thereto, the Registrar shall certify by endorsement at the foot of the declaration—

- (a) that the party is not known to the Registrar and that the witnesses are known to the Registrar or that such party is known to the Registrar;
- (b) that the witnesses have declared to him that they are personally known to such party; and
- (c) that the declaration was made and subscribed by the party in the presence of the Registrar.

Entry and publication of notice of Kandyan marriage.

17. A Registrar shall, on the service on him of notice of a prospective Kandyan marriage, forthwith comply with the following provisions:—

- (a) The Registrar shall file such notice and keep it with the records of his office.
- (b) The Registrar shall enter in his Marriage Notice Register such of the particulars specified in the notice as may be prescribed (hereinafter referred to as the "marriage notice entry").

(c) The Registrar shall publish the notice by exhibiting or causing to be exhibited a true copy of the notice or of a prescribed extract thereof at some conspicuous place in his office for a continuous period of at least twelve days reckoned from the date of the marriage notice entry.

(d) Where both parties to the marriage resided in different divisions for the period referred to in paragraph (2) of section 16, the Registrar shall—

- (i) if he is a Divisional Registrar; or
- (ii) if he is a District Registrar and if any one of such divisions is not situated in his district,

furnish a certified copy of the notice to the party by whom the notice was served.

18. The following provisions shall apply in any case where notice of a prospective Kandyan marriage has been served on a Registrar under this Act:— Issue of certificates in respect of Kandyan marriages.

(1) Subject as hereinafter provided, the Registrar shall, upon application made in that behalf by a party thereto, issue to that party a certificate (hereinafter referred to as a " marriage notice certificate ") in respect of the marriage.

(2) The Registrar shall not issue the marriage notice certificate—

- (a) if any lawful impediment or other lawful hindrance to the issue thereof has been shown to him; or
- (b) if, being a District Registrar, any objection to the issue thereof has been made to him under this Act, unless an order overruling that objection has been made by him under section 21; or
- (c) if, being a Divisional Registrar, any such objection

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- has been made to him, except upon the receipt by him of a certified copy of an order under section 21 overruling that objection.
- (3) Where the provisions of paragraph (1) or paragraph (3) or paragraph (4) of section 16 apply in the case of the marriage, the Registrar—
- (a) if he is a District Registrar, shall not issue the marriage notice certificate—
- (i) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof, unless a party thereto makes application in that behalf and also makes and subscribes the declaration required by paragraph (5) of this section; or
- (ii) after the expiry of a period of three months reckoned from that date; and
- (b) if he is a Divisional Registrar, shall not issue the marriage notice certificate—
- (i) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof, except under the authority of a special licence issued under section 19; or
- (ii) after the expiry of a period of three months reckoned from that date.
- (4) Where the provisions of paragraph (2) of section 16 apply in the case of the marriage, the Registrar—
- (a) if he is a District Registrar in whose district both parties thereto resided for the period referred to in that paragraph, shall not issue the marriage notice certificate—
- (i) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof, unless a party thereto makes application in that behalf and also makes and subscribes the declaration required by paragraph (5) of this section; or
- (ii) after the expiry of a period of three months reckoned from that date; and
- (b) if he is a Divisional Registrar, shall not issue the marriage notice certificate—
- (i) except upon the production of a certified copy of the notice thereof served on any other Registrar under that paragraph; or
- (ii) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof or from the date of the marriage notice entry made by such other Registrar in respect thereof, whichever date is later, except under the authority of a special licence issued under section 19 or upon the production : of a marriage notice certificate issued by such

- other Registrar in respect of the marriage ; or
- (iii) after the expiry of a period of three months reckoned from the earlier of the two dates referred to in the last preceding sub-paragraph of this paragraph; and
- if he is a District Registrar in whose district only one party thereto resided for the period referred to in that paragraph, shall not issue the marriage notice certificate—
- (i) except upon the production of a certified copy of the notice thereof served on any other Registrar under that paragraph; or
- (ii) before the expiry of a period of twelve days reckoned from the date of the marriage notice entry made by him in respect thereof or from the date of the marriage notice entry made by such other Registrar in respect thereof, whichever date is later, unless a party thereto makes application in that behalf and also makes and subscribes the declaration required by paragraph (5) of this section or produces a marriage notice certificate issued by such other Registrar in respect of the marriage ; or
- (iii) after the expiry of a period of three months reckoned from the earlier of the two dates referred to in the last preceding sub-paragraph.
- (5) Any party to the marriage who desires to obtain a marriage notice certificate from a District Registrar before the expiry of the period referred to in paragraph (3) (a) (i) or paragraph (4) (a) (i) or paragraph (4) (c) (ii) of this section shall appear in person before that Registrar and make and subscribe a declaration to the following effect:—
- (i) that there is no lawful impediment or other lawful hindrance to the marriage; and
- (ii) that the consent of any person to the marriage is required by this Act and that such consent has been obtained or that the consent of any person to the marriage is not required by this Act.
- The declaration shall bear a stamp or stamps of the prescribed value which shall be supplied by the party making the declaration.
- (6) A marriage notice certificate issued by a Registrar under this section—
- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars; and
- (c) shall be signed by the Registrar.
- 19.** (1) The following provisions shall apply in the case of a prospective Kandyan marriage in respect of which a special licence is required for the issue of a marriage notice certificate before the expiry of the period referred to in paragraph (3) (b) (i) of section 18 ;—
- (a) Where notice of the marriage has been served upon the Divisional Registrar for a division under paragraph (1) or paragraph (3) or paragraph (4) of section 16, a party to the marriage may apply to the District Registrar in whose district that division is situated or to such

Special licences for issue of marriage notice certificates. [§6, Law 41 of 1975J

Divisional Registrar for a special licence authorizing such District Registrar or Divisional Registrar to issue a certificate before the expiry of that period.

Divisional Registrars, for a special licence authorizing each such Divisional Registrar to issue a certificate before the expiry of that period.

(b) Subject as hereinafter provided, the District Registrar or such Divisional Registrar shall, upon the receipt of the application, issue the licence.

(b) Subject as hereinafter provided, the District Registrar or either of such Divisional Registrars shall, upon the receipt of the application, issue the licence.

(c) The District Registrar or such Divisional Registrar shall not issue the licence—

(c) The District Registrar or such Divisional Registrar shall not issue the licence—

(i) if any lawful impediment or other lawful hindrance to the issue of the certificate has been shown to him; or

(i) .if any lawful impediment or other lawful hindrance to the issue of either such certificate has been shown to him, or

(ii) if any objection has been made under this Act to the issue of the certificate, unless an order has been made under section 21 overruling that objection.

(ii) if any objection has been made under this Act to the issue of either such certificate, unless an order has been made under section 21 overruling that objection.

(d) The District Registrar or such Divisional Registrar shall not issue the licence except upon the production of a certified copy of the notice served on the. Divisional Registrar.

(d) The District Registrar or such Divisional Registrar shall not issue the licence except upon the production of a certified copy of the notice served on each such Divisional Registrar.

(e) The District Registrar or such Divisional Registrar shall not issue the licence unless the applicant therefor makes and subscribes the declaration required by subsection (3) of this section.

(e) The District Registrar or such Divisional Registrar shall not issue the licence unless the applicant therefor makes and subscribes the declaration required by subsection (3) of this section.

(2) The following provisions shall apply in the case of a prospective Kandyan marriage in respect of which a special licence is required for the issue of marriage notice certificates before the expiry of the period referred to in paragraph (4) (b) (ii) of section 18:—

(3) Before a special licence is issued, one of the parties to the intended marriage shall appear in person before the Divisional Registrar or the District Registrar, or where notice has been given to two Divisional Registrars, before either of the two Registrars and make and subscribe a written declaration to the following effect;—

(a) Where notice of the marriage has been served upon two Divisional Registrars under paragraph (2) of section 16, a party to the marriage may apply to the District Registrar in whose district the division of either such Divisional Registrar is situated, or to either of such

(a) that there is no lawful impediment or other lawful hindrance to the marriage;

(b) that the consent of any person to the marriage is required by this Act and

that such consent has been obtained or that the consent of any person to the marriage is not required by this Act; and

(c) that no objection to the issue of the certificate has been made under this Act or that any such objection has been made but has been overruled by order made under section 21.

(4) Where the declaration is made before the District Registrar it shall bear stamps to the value of thirty rupees to be supplied by the party making the declaration and where the declaration is made before the Divisional Registrar it shall be accompanied by a receipt issued by the District Registrar in proof of payment of a sum of thirty rupees.

Objections to issue of marriage notice certificates.

20. (1) Any person—

(a) being a person whose consent to a Kandyen marriage is required by this Act; or

(b) being a person who is interested in such marriage,

may object in writing to the issue of a marriage notice certificate in respect thereof.

(2) Every objection to the issue of such a certificate—

(a) shall be made to the Registrar who is empowered by this Act to issue the certificate;

(b) shall be substantially in the prescribed form;

(c) shall state—

(i) the name and address of the objector;

(ii) whether the objector makes the objection in his capacity as a person whose consent to the marriage is required by this Act or as a person who is interested in the marriage; and

(iii) the ground or grounds on which the objection is made ; and

(d) shall be signed, in the presence of such Registrar, by the objector and two credible witnesses who are known to such objector.

21. (1) Upon the receipt of an objection to the issue of a marriage notice certificate, a Registrar shall, if he is a Divisional Registrar, forthwith forward such objection to the District Registrar for the district in which his division is situated.

Inquiries into objections to issue of marriage notice certificates.

(2) Upon the receipt of an objection to the issue of a marriage notice certificate in respect of any prospective Kandyen marriage, made or forwarded to him under section 20 or under this section, a District Registrar shall forthwith cause a notice to be served upon each party to the marriage and the objector.

(3) The notice—

(a) shall state the nature of the objection to the issue of the certificate ;

(b) shall indicate that at a time and date specified in the notice the District Registrar will attend at his office or at such other place as he may specify in the notice for the purpose of hearing such objection; and

(c) shall call upon the person to whom the notice is addressed to appear before the District Registrar along with his witnesses, if any, on the date and at the time and place so indicated.

(4) The District Registrar shall attend on the date and at the time and place indicated in the notice and shall make order upholding or overruling the objection after such summary inquiry as he may deem necessary either on that date or on any other date to which he may adjourn or postpone the inquiry.

(5) The District Registrar shall cause a certified copy of the order to be served on each party to the inquiry and, if the

objection was forwarded to him by a Divisional Registrar under this section, on the Divisional Registrar.

(6) Before disposing of the objection, the District Registrar shall give the objector, each party to the marriage and their respective witnesses, if any, an opportunity of being heard,

(7) A District Registrar shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of an objection to the issue of a marriage notice certificate.

22. (1) A Registrar, on whom notice of 3 prospective Kandyan marriage has been served under this Act, shall, unless there is any lawful impediment or other lawful hindrance to the marriage, solemnize the marriage in the manner hereinafter provided upon the production by the parties to the marriage of the following document or documents, as the case may be:—

- (a) where the provisions of paragraph (1) or paragraph (3) or paragraph (4) of section 16 apply in the case of the marriage, upon the production of the marriage notice certificate issued by such Registrar;
- (b) where such Registrar is a District Registrar and where both parties to the marriage resided in different divisions (being divisions situated in his district) for the period referred to in paragraph (2) of section 16, upon the production of the marriage notice certificate issued by him;
- (c) where such Registrar is a District Registrar and where both parties to the marriage resided in different divisions (one of which is not situated in his district) for the period referred to in paragraph (2) of section 16, upon the production of the following marriage notice certificates, namely, the marriage notice certificate issued by such Registrar and the marriage notice certificate issued by any other

Registrar on whom notice of the marriage was served under that paragraph;

(d) where such Registrar is a Divisional Registrar and where the provisions of paragraph (2) of section 16 apply in the case of the marriage, upon the production of the following marriage notice certificates, namely, the marriage notice certificate issued by such Registrar and the marriage notice certificate issued by any other Registrar on whom notice of the marriage was served under that paragraph.

(2) The marriage shall be solemnized by the Registrar—

- (a) in the presence of both parties to the marriage and two witnesses ;
 - (b) in any authorized place;
 - (c) at any time between the authorized hours on any day; and
 - (d) in accordance with the provisions of subsection (3) of this section.
- (3) Such marriage shall be solemnized—
- (a) by the Registrar asking the male party to the marriage, and at the same time causing such party to take the female party by the hand, " Do you take this woman (her name in full must be mentioned) to be your wedded wife ? "; and
 - (b) after such male party has answered the question in the affirmative, by the Registrar asking the female party to the marriage, and at the same time causing her to take the male party by the hand, " Do you take this man (his name in full must be mentioned) to be your wedded husband ? "; and
 - (c) by the female party answering the question in the affirmative.

Solemnization of Kandyan marriages.

Registration of Kandyan marriages.

23. (1) Immediately after the solemnization of a Kandyan marriage by a Registrar under section 22, the Registrar shall comply with the following provisions:—

(a) The Registrar shall register accurately in his Marriage Register the following particulars relating to the marriage;—

(i) the name in full, age, civil condition (whether unmarried, widowed or divorced), occupation or calling and place of residence of each party to the marriage ;

(ii) the nature of the marriage (whether in *binma* or *diga*) which the Registrar is hereby required to ascertain from the parties thereto prior to making the entry ; and

(iii) the name in full, occupation or calling and place of residence of each witness to the marriage.

(b) The Registrar shall cause the marriage registration entry consisting of the particulars registered in his Marriage Register under the preceding provisions of this section (hereinafter referred to as the " marriage registration entry ") to be signed by both parties and the witnesses to the marriage.

(c) After the marriage registration entry has been signed by both parties and the witnesses to the marriage, the Registrar shall, after satisfying himself that the particulars relating to the marriage stated in the marriage registration entry correspond with the particulars in the marriage notice certificate or certificates, as the case may be, issued under this Act in respect of the marriage, append his own signature to the entry.

(d) If the signature of any person in the marriage registration entry appears to the Registrar to be illegible, or if

any person instead of signing such entry has affixed his thumb impression, the Registrar shall write the name of such person above such signature or thumb impression, as the case may be.

(2) The marriage registration entry— [§6, Law 41 of 1975.]

(a) shall be prepared in triplicate, that is to say, the original, the second copy (hereinafter referred to as the " duplicate"), and a third copy which shall bear an endorsement under the hand of the registrar to the effect that it is issued under section 23A; and

(b) shall be made—

(i) in the presence of both parties and the witnesses to the marriage;

(ii) in any authorized place; and

(iii) at any time between the authorized hours on any day.

(3) The marriage registration entry made under this section in respect of the marriage shall for all purposes constitute the registration of the marriage.

23A. The third copy referred to in the preceding section shall forthwith, free of charge, be delivered or transmitted by post to the female party to the marriage by the registrar. Issue of copy of marriage registration entry free. [§6, Law 41 of 1975.]

24. (1) For the purposes of this Act, a Kandyan marriage shall be deemed to be solemnized and registered in an authorized place and between the authorized hours on any day— What constitutes solemnization and registration of Kandyan marriages in authorized places and between authorized hours. [§6, Law 41 of 1975.]

(a) if the marriage is solemnized and registered by a District Registrar—

(i) in his office at any time between the hours of 6 a.m. and 6 p.m. on that day; or

(ii) in such other place at any time on that day as he may in his absolute discretion determine

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so to do upon written application made in that behalf by a party to the marriage; or

(b) if the marriage is solemnized and registered by a Divisional Registrar—

(i) in his office at any time between the hours of 6 a.m. and 6 p.m. on that day; or

(ii) in such other place at any time on that day as the District Registrar in whose district notice of the marriage has been given may authorize the Divisional Registrar so to do upon written application made in that behalf by a party to the marriage.

(2) Every application authorized to be made under the preceding provisions of this section shall bear a stamp or stamps of the prescribed value.

24A. For the resolution of any doubts, it is hereby declared, that, notwithstanding anything to the contrary in section 24, where any Kandyan marriage has, before the 1st day of November, 1978, been solemnized and registered between the hours of 6 a.m. and 6 p.m. at any place outside the office of a District Registrar or Divisional Registrar, such solemnization and registration shall be deemed to be as valid and effectual, as if it has been solemnized and registered between the hours of 6 a.m. and 6 p.m. in the office of the District Registrar or the Divisional Registrar.

25. (1) Every Divisional Registrar shall, in respect of each month, send to the Registrar-General through the District Registrar in whose district his division is situated for custody in the office of the Registrar-General—

(a) the duplicate of every marriage registration entry made by such Divisional Registrar during that month; and

(b) if no such registration entry was made by him during that month, a certificate to that effect:

Provided that a Divisional Registrar shall send that duplicate or certificate direct to the Registrar-General, if such Registrar is so directed in writing by the Registrar-General.

(2) Every District Registrar shall, in respect of each month, send to the Registrar-General for custody in his office—

(a) the duplicate of every marriage registration entry made by such District Registrar during that month; and

(b) if no such entry was made during that month, a certificate to that effect.

(3) The Registrar-General shall, upon the receipt of any document sent to him under the preceding provisions of this section, cause such document to be filed and preserved in his office.

26. (1) Where the original of a marriage registration entry under this Act is lost, damaged, has become illegible or is in danger of becoming illegible, and the duplicate is available, the Registrar-General may, after due inquiry, cause to be substituted therefor, a copy of the duplicate certified by him to have been made after verification with the duplicate and to be a true copy of the duplicate. Every such copy shall replace the original and shall, for all purposes, be deemed to be the original of the marriage registration entry.

(2) Where the duplicate of a marriage registration entry under this Act is lost, damaged, has become illegible or is in danger of becoming illegible and the original is in the custody of a Registrar, the Registrar-General may, after due inquiry, cause to be substituted therefor a copy of the original, certified by the Registrar to have been made after verification with the original and to be a true copy of the original and, if such Registrar is a Divisional Registrar countersigned by the District Registrar in whose district the division of such Divisional Registrar is situated. Every

Replacement of original or duplicate marriage registration entry in certain circumstances. [§6, Law 41 of 1975.]

Resolution of doubts. [§6, Law 41 of 1975.]

Transmission of duplicates of entries made by Registrars.

such copy shall replace the duplicate and shall, for all purposes, be deemed to be the duplicate of the marriage registration entry.

(3) Where both the original and the duplicate of a marriage registration entry under this Act are lost, damaged, have become illegible or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such original and duplicate. Such copies shall replace the original and duplicate and shall, for all purposes, be deemed to be the original marriage registration entry and the duplicate of the marriage registration entry, respectively.

Consequences of delay in solemnization and registration of Kandyan marriages.

27. (I) Where a prospective Kandyan marriage is not solemnized and registered—

- (a) before the expiry of a period of three months reckoned from the date of the marriage notice entry in respect thereof made by a Registrar under this Act; or
- (b) if a marriage notice entry in respect thereof has been made by each of two Registrars under this Act, before the expiry of a period of three months reckoned from the date of the earlier of such entries,

the notice or notices and entry or entries, as the case may be, in respect thereof, and every certificate, licence and other document granted or issued in pursuance thereof, shall be null and void and of no effect for the purposes of this Act.

(2) The time taken up in disposing of any objection made under this Act against the issue of a marriage notice certificate shall not be taken into account for the purpose of the computation of the period of three months referred to in subsection (1) of this section or in section 18.

Registration to constitute best evidence of marriage.

28. (1) The registration under this Act of a Kandyan marriage shall be the best evidence of the marriage before all courts and in all proceedings in which it may be necessary to give evidence of the marriage. Where the marriage registration entry, which under section 23 (3) constitutes such

registration, does not indicate whether the marriage was contracted in *binna* or *diga*, the marriage shall be presumed to have been contracted in *diga* until the contrary is proved.

(2) For the purposes of subsection (1) of this section—

- (a) the copy, substituted under subsection (1) of section 26, for the original entry made by a Registrar in his Marriage Register; and
- (b) the copy, substituted under subsection (2) of section 26, for the duplicate entry made by a Registrar in his Marriage Register,

shall be deemed to be an original entry made by the Registrar in such register.

29. After the solemnization and registration of a Kandyan marriage—

Proof of certain matters not required once Kandyan marriage is registered.

- (1) it shall not be necessary, in support thereof, to prove—
 - (a) that any party thereto actually resided in any division or district specified in the notice of marriage or that any such party so resided for the period so specified;
 - (b) the consent thereto of any person whose consent was required by this Act; and
 - (c) that the marriage was solemnized and registered in an authorized place and at any time between the authorized hours on any day;

and

- (2) no evidence shall be given in any suit or other proceedings touching the validity of such marriage to prove—
 - (a) that any party thereto did not actually reside in the division or district specified in the notice of marriage or that any such party did not so reside for the period so specified;
 - (b) that the consent of any person whose consent thereto was required by this Act was not obtained and

(c) that the marriage was not solemnized and registered in an authorized place and at any time between the authorized hours on any day.

(5) In disposing of the application the Registrar-General shall make order allowing or disallowing the application. Such order shall—

Mode of rectifying failures to register, and errors in registration of, Kandyan marriages.

30. (1) Where a Kandyan marriage has not been registered or has been incorrectly registered, a party thereto may apply to the Registrar-General to have the marriage registered or correctly registered, as the case may be. Such application shall be verified by an affidavit made by that party.

(i) if the application is for the registration of the marriage, require a Divisional Registrar or District Registrar for the division or district, as the case may be, in which the marriage was contracted to register the marriage; or

(2) Upon the receipt of an application under subsection (1) of this section, the Registrar-General shall cause a notice to be served upon the applicant and upon such other persons as he may deem fit. Such notice shall—

(ii) if the application is for the correct registration of the marriage, direct a Divisional Registrar or District Registrar for the division or district, as the case may be, in which the marriage was incorrectly registered to correctly register the marriage.

(a) indicate that at a time and date specified in such notice the Registrar-General will attend at his office or at such other place as he may specify in the notice for the purpose of hearing the application; and

(6) No application for the registration or correct registration, as the case may be, of a Kandyan marriage shall be allowed by the Registrar-General under this section unless he is satisfied that the marriage was otherwise duly contracted and that the omission to register, or the incorrect registration of, the marriage was not due to any act, default or neglect of either party thereto.

(b) calling upon the person to whom the notice is addressed to appear before him on the date and at the time and place so indicated.

(7) Every Registrar shall comply with any order issued to him by the Registrar-General under this section.

The Registrar-General shall also cause to be published, in a conspicuous place at his office, a notice specifying the particulars set out in paragraph (a) and calling upon all persons interested in the application, if they so desire, to appear before him on the date and at the time and place indicated in the notice.

(8) The Registrar-General shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of any application.

(3) The Registrar-General shall attend on the date, and at the time and place, indicated in the notice and dispose of the application after such summary inquiry as he may deem necessary, either on that date or on any other date to which he may adjourn or postpone the inquiry.

(9) The powers conferred on the Registrar-General by the preceding provisions of this section may be exercised by any District Registrar generally or specially authorized in that behalf by the Registrar-General.

(4) Before disposing of the application, the Registrar-General shall give each party on whom notice of the application has been served and his witnesses, if any, as well as each person who appears in response to the notice published under subsection (2) an opportunity of being heard.

31. (I) Where, by virtue of any Order under section 40, any area which is situated within any division (hereinafter referred to as the " old division ") becomes, with effect from the date specified in that Order, a separate division or a part of any other existing division (hereinafter referred to as the " new division "), and where, before that

Issue of marriage notice certificates and solemnization and registration of Kandyan marriages upon alteration of divisions.

date, notice of a prospective Kandyan marriage is given by a party resident in that area, but the marriage notice certificate is not issued under section 18 before that date or the marriage is not solemnized and registered before that date, then, notwithstanding anything in this Act, that certificate may be issued, or that marriage may be solemnized and registered, and any other act required by this Act to be done in that connection by a Registrar of the old division may be done, by a Registrar of the old division or of the new division nominated in that behalf by the Registrar-General or the District Registrar within whose district that area is situated and the provisions of this Act shall apply accordingly ; and every such Registrar shall comply with such directions as may be given to him by the Registrar-General or the District Registrar, as the case may be.

(2) The provisions of subsection (1) shall apply in every case where one division is amalgamated with another division to form a new division in like manner as those provisions apply to a case where an area within a division becomes a separate division or a part of any other existing division.

PART IV

DIVORCES

Grounds for divorce.

32. The dissolution of a Kandyan marriage shall be granted on any of the following grounds:—

- (a) Adultery by the wife after marriage.
- (b) Adultery by the husband, coupled with incest or gross cruelty.
- (c) Complete and continued desertion by the wife for two years.
- (d) Complete and continued desertion by the husband for two years.

(e) Inability to live happily together, of which actual separation from bed and board for a period of one year shall be the test.

(f) Mutual consent.

33. (1) The male party to a Kandyan Divorce. marriage may apply for a dissolution of the marriage on any ground specified in paragraph (a) or paragraph (c) or paragraph (e) of section 32 and the female party to a Kandyan marriage may apply for a dissolution thereof on any ground specified in paragraph (b) or paragraph (d) or paragraph (e) of that section. Such application shall be made to the District Registrar for the district in which the party applicant resides, or in a case where the party applicant resides outside the Kandyan provinces to the District Registrar for the district in which the respondent resides or in which the marriage was registered. [§6, Law 41 of 1975.]

(2) Both parties to a Kandyan marriage may jointly apply to the District Registrar for the district in which either of the parties resides or in a case where both parties reside outside the Kandyan provinces, to the District Registrar for the district where the marriage was registered for a dissolution of the marriage on the ground specified in paragraph (f) of section 32. [§ 6, Law 41 of 1975.]

(3) The application shall be in writing and shall state—

- (a) the name in full and address of each party to the marriage;
- (b) the nature of the marriage (whether in *binna* or *diga*) and the number of surviving children;
- (c) the ground or grounds upon which the application is made; and

shall be, signed by the applicant, or in the case of a joint application, by both the applicants.

(4) The District Registrar shall forthwith, on the receipt of the application, cause a notice to be served upon each party to the marriage. The notice—

- (a) shall state the ground or grounds upon which the application is made;
 - (b) shall indicate that at a time and date specified in the notice the District Registrar will attend at his office or at such other place as he may specify in the notice for the purpose of disposing of such application; and
 - (c) shall call upon the person to whom the notice is addressed to appear before such Registrar along with his witnesses, if any, on the date and at the time and place so indicated.
- (5) The District Registrar shall attend on the date and at the time and place indicated in the notice and shall dispose of the application after such summary inquiry as he may deem necessary either on that date or on any other date to which he may adjourn or postpone the inquiry.
- (6) In disposing of the application the District Registrar shall, in his discretion, make order—
- (a) granting the dissolution of the marriage in respect of which the application was made ; or
 - (b) refusing to grant the dissolution of such marriage.
- (7) In making an order under this section granting the dissolution of a Kandyan marriage, the District Registrar—
- (i) shall, if both parties to the marriage have agreed upon any compensation to be made to either or both of the parties on account of the dissolution thereof, embody the terms of the agreement in his order at the request of the parties;
 - (ii) may, in his discretion, provide in the order that the husband shall pay a certain sum of money periodically or make other provision for the maintenance of -his wife (if, but only if, the order does not embody any agreement under paragraph (i) of this subsection for compensation to be made to her); and
 - (iii) may, in his discretion, provide in the order that the husband shall pay a certain sum of money periodically or make other provision for the maintenance of his children.
- (8) Before disposing of any application under this section, the District Registrar shall give each party to the marriage and his or her witnesses, if any, an opportunity of being heard.
- (9) The District Registrar shall cause a copy of his order to be served upon each party to the marriage.
- (10) Subject to the provisions of subsection (11), an order granting the dissolution of a Kandyan marriage whether made by the District Registrar under this section or by the District Court on appeal shall be entered by the District Registrar in his Divorce Register. The entry aforesaid shall for all purposes constitute the registration of the dissolution of the marriage and accordingly the date on which such entry is made shall for the purposes aforesaid be the date of such registration as well as the date of such dissolution.
- (11) No order granting the dissolution of a Kandyan marriage made by the District Registrar under this section shall be entered by him in his Divorce Register—
- (a) until the time limit for an appeal expires; and
 - (b) where an appeal is preferred, until the District Court confirms the order.
- Where the District Court makes an order confirming the order of the District Registrar subject to any variations or modifications, the order as so varied or modified shall be entered in the Divorce Register.

[§6, Law 41 of 1975.] (12) (a) It shall be the duty of the District Registrar to make the entry in his Divorce Register in respect of such order in accordance With the provisions of this section.

(b) Every such entry shall be prepared in triplicate, that is to say, the original (which shall be retained by the District Registrar), the second copy (hereinafter referred to as the "duplicate"), and a third copy which shall bear an endorsement that it is issued under the hand of the District Registrar under this section.

(c) The third copy shall forthwith, free of charge, be delivered or transmitted by post to the party applicant and in the case of a joint application, to the female party.

(13) A District Registrar shall keep a record in writing of all proceedings taken by him under this section for the purpose of disposing of the application for the dissolution of a Kandyan marriage.

[§6, Law 41 of 1975.] (14) Every District Registrar shall, in respect of each month, by such date as may be fixed by the Registrar-General, send to the Registrar-General for custody in his office—

(a) the duplicate of every registration entry made under subsection (10) by such District Registrar during that month; and

(b) if no such entry was made during that month, a certificate to that effect.

[§6, Law 41 of 1975.] (15) Where the original of the registration entry referred to in subsection (10) is lost, damaged, has become illegible or is in danger of becoming illegible, and the duplicate is available, the Registrar-General may, after such inquiry as he may deem necessary, cause such original to be replaced by a copy of the duplicate certified by him to have been made after verification of the copy with the duplicate. Every such copy shall replace the original and shall, for all purposes, be deemed to be the original of the registration entry made under subsection (10).

(16) Where the duplicate of a registration entry made under subsection (10) is lost, damaged, has become illegible or is in danger of becoming illegible and the original is in the custody of the District Registrar, the Registrar-General may, after such inquiry as he may deem necessary, cause to be substituted therefor a copy of the original certified by the District Registrar to have been made after verification with the original and to be a true copy of the original. Every such copy shall replace the duplicate of the registration entry and shall, for all purposes, be deemed to be the duplicate of the original registration entry made under subsection (10).

(17) Where both the original of the registration entry made under subsection (10) and the duplicate sent to the Registrar-General under subsection (14) are lost, damaged, have become illegible or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such original and duplicate. Such copies shall replace the original and duplicate and shall, for all purposes, be deemed to be the original of the divorce registration entry and the duplicate of the original divorce registration entry, respectively.

34. (1) Any party to a Kandyan marriage who is aggrieved by the order made by a District Registrar on the application for a dissolution of the marriage may appeal against such order in the manner hereinafter provided to the District Court of the district in which such party resides.

(2) The appeal shall be preferred by means of a written petition verified by an affidavit made by the party appellant within thirty days of the service on such party of the order of the District Registrar.

(3) The petition of appeal shall bear a stamp or stamps of the prescribed value which shall be supplied by the appellant.

(4) The petition of appeal—

(a) shall be in the prescribed form;

[§6, Law 41 of 1975.]

[§6, Law 41 of 1975.]

Appeals.

- (b) shall state the names and addresses of the appellant and the other party to the marriage;
- (c) shall state the ground or grounds on which the appeal is made;
- (d) shall contain such other particulars as may be prescribed ; and
- (e) shall be signed by the appellant.

(5) The petition of appeal shall be forwarded in the first instance to the District Registrar against whose order the appeal is preferred. Such Registrar shall, on the receipt of the petition, immediately forward it to the District Court along with the relevant record kept by him under section 33.

(6) The District Court may, on any appeal under this section, make order—

- (a) confirming the order of a District Registrar; or
- (b) confirming such order subject to such variations or modifications as the District Court may deem necessary ; or
- (c) setting aside such order and, if such order is an order refusing to grant the dissolution of the marriage, granting the dissolution of the marriage.

(7) Subject to such rules as may be made in that behalf by the Supreme Court, the procedure to be followed on any appeal to the District Court under this section shall be such as may be determined by the court.

(8) The District Court shall cause a copy of any order made by the court under this section to be served upon the District Registrar and it shall be the duty of that Registrar to comply with such order.

35. (1) Save as otherwise expressly provided in subsection (2), an order for the dissolution of a Kandyan marriage made under this Act may, in so far and in so far only as it makes provision for any matter specified in paragraph (ii) or paragraph (iii)

of subsection (7) of section 33, be enforced, discharged, modified or suspended and, if discharged or suspended, be revived, by a District Court as though it were a like order made by that court under Chapter XLII of the Civil Procedure Code.

(2) No order for the dissolution of a Kandyan marriage made under this Act shall, in so far and in so far only as it makes provision for the wife in respect of any matter specified in paragraph (ii) of subsection (7) of section 33, be discharged except upon proof that she has been habitually cohabiting with any man since the date of dissolution of the marriage.

36. The registration under this Act of the dissolution of a Kandyan marriage shall be the best evidence of such dissolution before all courts and in all proceedings in which it may be necessary to give evidence of such dissolution.

Registration to constitute best evidence of divorce.

PART V

ADMINISTRATIVE ARRANGEMENTS

37. (1) The person for the time being holding office as the Registrar-General of Marriages for Sri Lanka shall be the Registrar-General of Kandyan Marriages for the purposes of this Act.

Registrar-General.

(2) The Registrar-General shall supervise and control the solemnization and registration of Kandyan marriages and the registration of dissolutions thereof under this Act and all other persons appointed for or engaged in carrying out the provisions of this Act.

38. Every person for the time being holding office as an Assistant Registrar-General of Marriages for Sri Lanka shall be an Assistant Registrar-General of Kandyan Marriages for the purposes of this Act.

Assistant Registrar-General.

39. (1) For each district which includes within its limits any part of the Kandyan provinces there shall be a District Registrar of Kandyan Marriages.

District Registrar.

(2) For any district referred to in subsection (1) the Government Agent of that district shall be the District Registrar.

Special provisions relating to orders for the dissolution of Kandyan marriages.

(3) Every Additional Government Agent, Assistant Government Agent, Additional Assistant Government Agent and Office Assistant to a Government Agent, of a district shall be an Additional District Registrar for that district.

(4) In the case of any district referred to in subsection (1) any person may be appointed to be the District Registrar in place of the officer specified in subsection (2), and any person, other than an officer specified in subsection (3), to be an Additional District Registrar.

(5) Every District Registrar shall, subject to the provisions of section 42, supervise and control the solemnization and registration of Kandyan marriages and the registration of divorces under this Act in his district and all other persons appointed for or engaged in carrying out the provisions of this Act in his district.

Division of Kandyan provinces into divisions.

40. The Minister may from time to time, by Order published in the Gazette, divide each district which includes within its limits any part of the Kandyan provinces into such number of divisions for the purposes of this Act as he may deem necessary, and may at any time by a like Order abolish, or vary the limits of, any such division.

Appointment of Registrars of Kandyan Marriages.

41. (1) There may from time to time be appointed a fit and proper person or each of two or more such persons to be or to act as a Registrar of Kandyan Marriages for each division.

(2) In the event of the death, sudden illness or incapacity of a Divisional Registrar for a division or in the event of any other emergency, the Registrar-General or the District Registrar in whose district that division is situated may, by writing under his hand, appoint a fit and proper person to act in place of such Divisional Registrar so, however, that no such appointment shall be made by a District Registrar for any period exceeding thirty days at any one time.

(3) Every appointment of a Divisional Registrar made by the Registrar-General or the District Registrar under the provisions of subsection (2) shall be forthwith entered

under his hand in a book which he shall keep for the purpose.

42. (1) In the exercise, performance or discharge of the powers, duties or functions conferred or imposed by or under this Act— Powers and duties of officers.

(a) each Assistant Registrar-General shall be subject to the general supervision and control of the Registrar-General;

(b) each District Registrar shall be subject to the general supervision and control of the Registrar-General ; and

(c) each Divisional Registrar shall be subject to the general supervision and control of the District Registrar for the district in which his division is situated.

(2) Subject to any directions issued by the Minister and subject to the general supervision and control of the Registrar-General—

(a) each Assistant Registrar-General may exercise, perform or discharge the powers, duties or functions conferred or imposed by or under this Act upon the Registrar-General ; and

(b) each District Registrar may exercise, perform or discharge the powers, duties or functions conferred or imposed by or under this Act on a Divisional Registrar.

43. (1) Save as hereinafter provided, every Divisional Registrar shall— Residence. office and additional offices of Divisional Registrars.

(a) reside and establish his office in such convenient place in his division as shall be appointed by the District Registrar for the district in which such division is situated ; and

(b) if so directed by that District Registrar, establish in his division such number of additional offices as may be approved by the District Registrar:

Provided that a District Registrar may, in the special circumstances of any case and with the prior approval of the Registrar-General, authorize a Divisional Registrar for any division which is situated in his district to reside or to have his office or to establish any additional office at a place outside his division.

(2) Every District Registrar shall forthwith notify to the Registrar-General the places appointed by him as the residence, office and additional office or offices (if any) of every Divisional Registrar in his district.

Attendance of Divisional Registrar at office. &c.

44. Every Divisional Registrar shall—

(a) attend his office and each additional office (if any) on such days and during such hours as shall, respectively, be appointed by the District Registrar for the district in which his division is situated ; and

(b) cause his name, with the words " Registrar of Kandyan Marriages", the name of his division, and the days and hours of his attendance as appointed by the District Registrar, to be placed in legible characters in Sinhala and English on a conspicuous place near the entrance of his office and each additional office (if any).

Books to be kept by Registrars.

45. (1) Every Registrar shall keep—

(a) a book to be called the " Marriage Notice Register" substantially in the prescribed form;

(b) a book to be called the " Marriage Register" substantially in the prescribed form; and

(c) such other books as he may be required to keep by or under the provisions of this Act.

(2) Every District Registrar shall keep a book to be called the " Divorce Register " substantially in the prescribed form.

(3) Every entry made by a Registrar in his Marriage Notice Register, Marriage Register and by a District Registrar in his Divorce Register shall be numbered consecutively.

(4) The Registrar-General and each District Registrar shall keep, for the purposes of this Act, such books as may be prescribed in such form as may be prescribed.

(5) Save as otherwise provided by or under this Act, the Registrar-General and every Registrar shall not allow any book or other documents kept by him under this Act to leave his possession except in compliance with the order of a competent court.

46. The Registrar-General may from time to time publish in the Gazette a list of the Divisional Registrars in Sri Lanka, with their names and the names of their divisions, offices and additional offices (if any).

Publication of lists of Divisional Registrars and their offices, &c.

47. (1) The Minister may from time to time make rules for the direction of the Registrar-General, the District Registrars, Divisional Registrars, and all persons whomsoever in the discharge of their duties under this Act, for all matters-required by this Act to be prescribed, and generally for carrying out the principles and provisions of this Act.

Power to make rules.

(2) No rule made under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette.

(3) Upon the publication in the Gazette of a notification to the effect that a rule made by the Minister has been approved by Parliament, that rule shall be as valid and effectual as if it were herein enacted.

PART VI

GENERAL

48. (1) Every Divisional Registrar shall, if called upon to do so by the Registrar-General or the District Registrar, produce for the inspection of the Registrar-General or District Registrar, as the case may be, any book or other document which is in his possession in his capacity as Divisional Registrar.

Production of books, &c., for inspection.

(2) Every book or other document kept by the Registrar-General or a Registrar under this Act shall be open to the inspection of any person on payment of the prescribed fee.

Custody of registers, &c.

49. (1) Every Divisional Registrar shall transmit every register which is completed by him to the District Registrar,

(2) Every District Registrar shall preserve in his office every register which is completed by him as well as every register which is transmitted to him under subsection (1).

Surrender of records by Registrar on his ceasing to hold office.

50. A person shall, on his ceasing to hold office as a Divisional Registrar for a division, transmit as soon as possible to the District Registrar in whose district that division is situated all books, documents and other papers which were in his possession in his capacity as Registrar. The District Registrar shall carefully preserve in his office all the books, documents and other papers so transmitted, and in the event of the appointment of a successor to such retiring Registrar, transmit such books, documents and other papers to such successor.

Correction of clerical errors in registers.

51. The Registrar-General or any other person authorized in that behalf by the Registrar-General may, after such inquiry, as he may deem necessary, correct any clerical error which may from time to time be discovered in any register kept under this Act.

Destruction of documents.

52. Notwithstanding anything in this Act, a District Registrar may cause any Marriage Notice Register, certificate, licence, application, notice or declaration which is served on him, or forwarded or transmitted to him, under this Act to be destroyed after a period of ten years from the date of the last entry in such register or from the date of the certificate, licence, application, notice or declaration, as the case may be.

Powers in relation to inquiries.

53. (1) For the purposes of any inquiry under this Act, the Registrar-General or any District Registrar may—

- (a) by summons in writing, require the production before him of all documents and papers which he may deem necessary and may require any person holding or accountable for any such documents or papers to appear before him at such inquiry and to make and sign a declaration in respect of the same;

- (b) by summons in writing, require the attendance before him at such inquiry of any person whom he may desire to examine on oath; and

- (c) administer an oath or affirmation to any person referred to in paragraph (A).

(2) Any person who—

- (a) neglects or refuses to produce any documents or papers, or to make or sign a declaration, when required to do so under subsection (1); and

- (b) neglects or refuses to attend any inquiry when required to do so under subsection (1); or

- (c) gives false evidence at any inquiry under this Act,

shall be guilty of an offence under this Act and shall be liable on conviction to a fine not exceeding one hundred rupees.

54. Such fee as may be prescribed shall be payable in advance— Fees.

- (a) to a District Registrar for the solemnization and registration of a prospective Kandyan marriage whether at his office or at any other authorized place; or

- (b) to a Divisional Registrar for the solemnization and registration of such marriage at any authorized place outside his office,

by the person requiring such Registrar to solemnize and register the marriage; and notwithstanding anything in this Act, if such fee is not so paid in advance such Registrar may refuse to solemnize and register the marriage.

PART VII

MISCELLANEOUS

55. In connexion with the preliminary Adjustments of arrangements necessary for bringing this Special matters. Act into operation, either generally or with reference to any special matter or matters,

either throughout the Kandyan provinces or in any specified part thereof, 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 effective provision is made by this Act.

Registrar shall be deemed to be duly served, issued, forwarded or transmitted if delivered at or sent by registered post to the office of the Registrar-General or Registrar, as the case may be.

Certified copies of books. &c.

56. (1) A person may on application made in that behalf and on payment of the prescribed fee, obtain from the Registrar-General or any Registrar a certified copy of or an extract from, any entry in a book or document in the possession of the Registrar-General or Registrar, as the case may be.

58. All expenses incurred in the administration of this Act shall be paid out of such moneys as may be voted by Parliament for the purpose.

Expenses.

59. All sums paid or recovered by way of stamp fees, fees or fines under this Act, other than any sum paid to a Divisional Registrar as a fee under section 54, shall be credited to the Consolidated Fund.

Disposal of fees.

[§ 6, Law 41 of 1975.]

(2) Such copy or extract, if purporting to be made under the hand of the Registrar-General or an Assistant Registrar-General or the District Registrar or an Additional District Registrar or the Divisional Registrar and the third copy issued under sections 23A and 33 (12) shall be received as prima facie evidence of the matters to which it relates without any further proof of the entry.

PART VIII

OFFENCES, PENALTIES AND INTERPRETATION

Service of notices, &c.

57. (1) Any notice, certificate, order, application or other document required or authorized for the purposes of this Act to be served on, or issued or forwarded or transmitted to, any person may be so served, issued, forwarded or transmitted—

- 60.** Any person who—
 - (a) for the purpose of procuring the solemnization or registration of a Kandyan marriage knowingly or wilfully makes and subscribes any false declaration or signs any false notice under this Act; or
 - (b) for the purpose of making an objection under this Act to the issue of a marriage notice certificate in respect of a Kandyan marriage, falsely represents himself to be a person whose consent to such marriage is required by this Act, knowing such representation to be false,

False declarations, &c.

shall be guilty of an offence under this Act.

- (a) by delivering it to that person;
- (b) by leaving it at the usual or last known place of abode of that person or, in the case of the Registrar-General or a Registrar, at his office; or
- (c) by sending it by post addressed to that person at his usual or last known place of abode or, in the case of the Registrar-General or a Registrar, at his office.

(2) Any notice, certificate, order, application or other document required or authorized for the purposes of this Act to be served on or issued or forwarded or transmitted to the Registrar-General or a

- 61.** Any person who—
 - (a) save as provided in section 52, knowingly and wilfully, tears, defaces or destroys any notice, certificate, declaration, register, book or other document kept under this Act or any part of such notice, certificate, declaration, register, book or document or any certified copy of such notice, certificate, declaration, register, book or document or of any part thereof kept under this Act; or

Destruction of documents, &c.

- (b) knowingly and wilfully inserts in any such notice, certificate, declaration, register, book or document any false statement; or
- (c) signs or issues under this Act any false certificate relating to any such notice, declaration, register, book or document; or
- (d) certifies any writing to be a copy of or extract from any such notice, certificate, declaration, register, book or document, knowing that such copy or extract, as the case may be, is not a true and correct copy thereof or extract therefrom,

shall be guilty of an offence under this Act.

Undue solemnization of marriages, &c.

62. Any person who—

- (a) knowingly and wilfully solemnizes or registers a Kandyan marriage when he is not authorized so to do by or under this Act; or
- (b) knowingly and wilfully solemnizes or registers a Kandyan marriage between persons one or both of whom is or are, as the case may be, not legally competent to contract a marriage,

shall be guilty of an offence under this Act.

Offences by Registrars.

63. Any Registrar who—

- (a) knowingly and wilfully solemnizes or registers a Kandyan marriage in contravention of any provision of this Act or of any rule made thereunder; or
- (b) knowingly and wilfully issues or grants any certificate, licence or other document under this Act in contravention of any provision of this Act or of any rule made thereunder; or
- (c) knowingly disobeys any provision of this Act or of any rule made thereunder intending to cause or knowing it to be likely to cause injury to any person or to the Government,

shall be guilty of an offence under this Act.

64. Every offence under this Act shall, save as otherwise expressly provided therein, be punishable with a fine not exceeding one thousand rupees or with imprisonment of either description for a term not exceeding two years or with both such fine and imprisonment.

Penalties.

65. All offences under this Act shall be cognizable offences for the purposes of the application of the provisions of the Code of Criminal Procedure Act, notwithstanding anything contained in the First Schedule of that Act, and shall be triable summarily by a Magistrate's Court.

Offences triable by Magistrate's court

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

Interpretation.

" appointed date " means the 1st day of August, 1954;

" Additional District Registrar " means a person for the time being holding office as an Additional District Registrar of Kandyan Marriages for any district;

" Assistant Registrar-General " means a person for the time being holding office as an Assistant Registrar-General of Kandyan Marriages for the purposes of this Act;

" district " means administrative district;

" District Registrar " means a person for the time being holding office as a District Registrar of Kandyan Marriages for any district and includes an Additional District Registrar;

" division " means any division into which the Kandyan provinces are divided under this Act;

" Divisional Registrar " means a person for the time being holding office as a Divisional Registrar of Kandyan Marriages for a division;

" Kandyan marriage " means a marriage, under this Act, between persons subject to Kandyan law ;

" Kandyan provinces " means the provinces specified in Part I of the Schedule to this Act and includes the areas specified in Part II of that Schedule;

" lawful age of marriage "—

(a) in relation to the male party to a marriage, means sixteen years of age;

(b) in relation to the female party to a marriage, means twelve years of age;

" minor " means a male person under eighteen years of age or a female person under sixteen years of age;

" office ", in relation to a Divisional Registrar, includes any additional office established by him under this Act;

" prescribed" means prescribed by rule made under this Act;

" Registrar " means any District Registrar or Divisional Registrar; and

" Registrar-General " means the person for the time being holding office as the Registrar-General of Kandyan Marriages for the purposes of this Act, and includes a Deputy Registrar-General.

[§§2&3, Law 23 of 1978.]

PART IX

TRANSITORY PROVISIONS, &c.

Registers, &c., kept, and made under the Kandyan Marriage Ordinance.

67. (1) Notwithstanding the repeal of Kandyan Marriage Ordinance* every register or other book kept under that Ordinance and in existence on the day immediately preceding the appointed date shall be deemed to be a register or other book, as the case may be, kept under the corresponding provisions of this Act, and every entry made in such register or other book shall be deemed to be an entry made under the corresponding provisions of this Act:

Provided, however, that any question as to the correctness of any such entry shall, notwithstanding such repeal, be determined in the manner in which it would have been determined if that Ordinance had not been repealed-

(2) Notwithstanding the repeal of the Kandyan Marriage Ordinance* any regulation made under that Ordinance and in force on the day immediately preceding the appointed date shall be deemed to be a rule made under this Act and accordingly may be varied, amended or revoked under this Act.

68. Notwithstanding the repeal of the Kandyan Marriage Ordinance * and the Kandyan Marriage (Removal of Doubts) Ordinance,* the following provisions shall apply in the case of marriages as defined in the Kandyan Marriage Ordinance :—

Special provisions applicable to certain marriages.

(1) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the registration of any such marriage of which notice had been given under that Ordinance before the appointed date and for the purpose of the determination of any question as to the validity of any such marriage which is so registered.

(2) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the disposal of any application for the dissolution of any such marriage which had been made under that Ordinance before the appointed date and for the purpose of the determination of any question as to the validity of any order of dissolution made on such application.

(3) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the completion of any act which had been commenced, but not completed, under that Ordinance before the appointed date.

*Repealed by Act No. 44 of 1952.

- (4) The provisions of the Kandyan Marriage Ordinance and the Kandyan Marriage (Removal of Doubts) Ordinance shall continue in force for the purpose of the determination of any question as to the validity of any such marriage contracted before the appointed date.
- (5) The provisions of the Kandyan Marriage Ordinance shall continue in force for the purpose of the determination of any question as to the validity of the dissolution, before the appointed date, of any such marriage.
- (6) The provisions of section 27 of the Kandyan Marriage Ordinance shall continue in force for the purpose of the determination of any question as to the legitimacy of, and the rights vested in, any child procreated by the parties to any such marriage prior to its registration under that Ordinance.
- (7) The fact that any such marriage was solemnized or registered before the

appointed date under the Marriage Registration Ordinance or under any enactment repealed by that Ordinance, shall not affect the rights of the parties thereto or of persons claiming title from or through such parties to succeed to property under and in accordance with the Kandyan law.

69. Notwithstanding anything in any other provision of this Act, a marriage registered under the Kandyan Marriage Ordinance may be dissolved on all or any of the grounds specified in section 32 of this Act; and accordingly for that purpose and that purpose only the provisions of Part IV of this Act shall apply in like manner and to the same extent as they apply to Kandyan marriages.

Application of Part IV to certain marriages.

70. Nothing in subsection (2) of section 4 of the Kandyan Succession Ordinance shall authorize or be deemed or construed to authorize the solemnization or registration under this Act of a marriage between persons either of whom is not a person subject to Kandyan law.

Kandyan Succession Ordinance not to apply to marriages under this Act,

[Section 66.)

SCHEDULE

KANDYAN PROVINCES

PART I

The provinces specified hereunder:—

- (1) The Central Province.
- (2) The North-Central Province.
- (3) The Province of Uva.
- (4) The Province of Sabaragamuwa.

PART II

The areas specified hereunder:—

- (1) Chinnacheddikulam East and West Korale and Kilakkumulai South Korale in the Vavuniya District, of the Northern Province.
- (2) Bintenne Pattu, Wegam Pattu, and Panama Pattu in the Batticalaa District, and Kaddukulam Pattu in the Trincomalee District, of the Eastern Province.
- (3) The Kurunegala District, and Demala Hat Pattu in the Puttalam District, of the North-Western Province.

CHAPTER 134

MARRIAGE AND DIVORCE (MUSLIM)

Acts
Nos. 13 of 1951,
31 of 1954,
22 of 1955,
1 of 1965,
5 of 1965,
32 of 1969,
Law
No. 41 of 1975.

AN ACT TO MAKE PROVISION WITH RESPECT TO THE MARRIAGES AND DIVORCES OF MUSLIMS IN SRI LANKA AND, IN PARTICULAR, WITH RESPECT TO THE REGISTRATION OF SUCH MARRIAGES AND DIVORCES.

[1st August, 1954.]

Short title. **1.** This Act may be cited as the Muslim Marriage and Divorce Act.

Application of Act. **2.** This Act shall apply only to the marriages and divorces, and other matters connected therewith, of those inhabitants of Sri Lanka who are Muslims.

office by the Minister, hold office for such period not exceeding three years as may be specified by the Minister at the time of the nomination of that member.

(2) A nominated member who vacates his office by effluxion of time shall be eligible for renomination to the board.

PART I

PRELIMINARY

Supervisory powers of Registrar-General and District Registrars. **3.** The Registrar-General shall, subject to the directions of the Minister, have the general control and superintendence of the registration of marriages and divorces under this Act, and every District Registrar shall, subject to the directions of the Registrar-General, have the control and supervision of the registration of such marriages and divorces within his district.

(3) The Minister may remove any nominated member from office if he is satisfied that such member, without leave of the board first obtained, has failed to attend three consecutive meetings of the board :

Provided that the preceding provisions of this subsection shall not be deemed in any way to limit the power of the Minister to remove a nominated member from office for any other cause.

The Muslim Marriage and Advisory Board. **4.** (1) For the purposes of this Act, there shall be established a board, to be called " The Muslim Marriage and Divorce Advisory Board ".

6. It shall be the function of the Muslim Marriage and Divorce Advisory Board to advise the Registrar-General on all such matters relating to or connected with the administration of this Act as may be referred by the Registrar-General to the board for such advice or in respect of which the board may think fit to tender advice. Function of the board.

(2) The board shall consist of the person for the time being holding the office of Registrar-General, who shall be the Chairman of the board, and of not less than four nor more than nine Muslims (hereinafter referred to as "nominated members ") nominated by the Minister.

Nominated members of the Board. **5.** (1) Every nominated member of the Muslim Marriage and Divorce Advisory Board shall, unless he earlier resigns his office as a member or is removed from

7. (1) The Chairman of the Muslim Marriage and Divorce Advisory Board shall preside at all meetings of the board at which he is present. In the absence of the Chairman from any meeting of the board the members present shall elect one of themselves to preside at that meeting. Meetings of the board.

(2) Four members of the board shall form the quorum for any meeting of the board.

(3) The Registrar-General may appoint an officer of his department to be or to act as the secretary of the board and it shall be the duty of the secretary to keep minutes of each meeting of the board.

(4) Subject to the provisions of this Act and any regulations made thereunder, the board may regulate its own procedure.

8. (1) The Registrar-General may, on application made in that behalf, appoint as a Registrar of Muslim Marriages any male Muslim who, in the opinion of the Registrar-General, is a fit and proper person to register marriages under this Act, and may, on payment of the prescribed fee, issue to him a certificate of appointment.

(2) The number of registrars that may be appointed under this section for any district shall be in the discretion of the Registrar-General.

(3) Every certificate of appointment under this section shall be made out in foil and counterfoil, substantially in form I set out in the First Schedule, and shall specify the particular area in which the person named in the certificate is authorized to register marriages under this Act.

(4) The prescribed fee for a certificate of appointment under this section shall be paid in stamps, which shall be supplied by the applicant and shall be affixed to the counterfoil and duly cancelled by the Registrar-General.

(5) A list of the registrars appointed under this section shall be made and preserved in the office of , the Registrar-General,

(6) Every registrar appointed under this section shall reside within the area specified in his certificate of appointment as the area in which he is authorized to register marriages.

(7) The Registrar-General may, in his discretion, by order cancel any appointment

made under this section and recall the certificate relating to such appointment,

9. (1) Where a registrar appointed under section 8 is temporarily absent from the area in which he is authorized to register marriages or is temporarily incapacitated for the performance of his duties under this Act by reason of illness or by any other sufficient cause, or is dead or has resigned or retired from office, the District Registrar may issue a certificate of appointment to any other fit and proper male Muslim to act as a temporary registrar in place of the aforesaid registrar for such period as may be specified in the certificate.

(2) Every certificate of appointment issued under this section shall be free of stamp duty and shall be valid only for the period specified therein.

10. (1) Whenever there is a special necessity for the appointment of a registrar otherwise than under section 8 or section 9, the Registrar-General may, on application made in that behalf, appoint as a special registrar any male Muslim who, in the opinion of the Registrar-General, is a fit and proper person to register marriages under this Act, and may, on payment of the prescribed fee, issue to him a certificate of appointment in the prescribed form.

(2) A special registrar may be appointed under this section either for the whole of Sri Lanka or for a special area thereof; but the exercise of the authority conferred by each appointment shall be limited to such cases or circumstances or be subject to such restrictions and conditions as may be specified by the Registrar-General in respect of that appointment.

(3) Every certificate of appointment issued under this section shall be made out in foil and counterfoil and shall specify the area for which the appointment is made and the cases or the circumstances in which or the conditions and restrictions subject to which the authority conferred by the appointment is to be exercised.

(4) The prescribed fee for a certificate of appointment under this section shall be paid in stamps, which shall be supplied by the

Registrars of Muslim Marriages.

Temporary Registrars.

[§2,32 of 1969.]

Special registrars.

applicant and shall be affixed to the counterfoil and duly cancelled by the Registrar-General.

(5) A list of the special registrars appointed under this section shall be made and preserved in the office of the Registrar-General,

(6) A special registrar appointed under this section shall not register any marriage in any case or in any circumstance other than the cases or circumstances, or otherwise in accordance with the conditions and restrictions, specified in his certificate of appointment.

(7) Any appointment made under this section may be cancelled, and the certificate relating thereto may be recalled, by the Registrar-General in his discretion.

Registration of marriages outside area of appointment.

11. Subject as hereinafter provided, no registrar appointed under section 8 or section 9 shall register any marriage contracted outside the limits of the area specified in the certificate of appointment issued to him:

Provided that the Registrar-General may in his discretion, on application made for that purpose in respect of any particular marriage in any area by the bridegroom and, where a *wali* is necessary according to the Muslim law governing the sect to which the bride belongs, by the *wali* of the bride, and on payment of the prescribed fee, authorize by letter a registrar appointed for any other area to register that marriage.

Quazis. [§2, 1 of 1965.]

12. (1) The Judicial Service Commission may appoint any male Muslim of good character and position and of suitable attainments to be a Quazi.

(2) Save as otherwise provided in section 13 or section 14, more than one person shall not be appointed to be a Quazi for the same area; and the area for which each Quazi is appointed shall be so fixed or delimited as to avoid any intersection with or overlapping of any other such area.

(3) Every appointment of a Quazi shall be notified in the Gazette.

(4) In the notification relating to the appointment of each Quazi the area for which he is appointed shall be specified.

(5) Every Quazi shall reside within the area for which he is appointed.

(6) The Judicial Service Commission [§2,1 of 1965.] may, in its discretion, cancel the appointment of any Quazi by notification in the Gazette.

(7) Every Quazi shall, unless he earlier resigns his office or his appointment is cancelled by the Judicial Service Commission, hold office for such period as may be specified in the notification relating to his appointment. [§2,1 of 1965.]

13. (1) Where a Quazi appointed for any area temporarily leaves the area or is temporarily incapacitated for the performance of his duties under this Act by reason of illness or by any other sufficient cause, the Judicial Service Commission may appoint a suitable person to act as a temporary Quazi for that area. Temporary Quazis. [§3, 1 of 1965.]

(2) The Judicial Service Commission [§3,1 of 1965.] may by Order published in the Gazette delegate to the Secretary to the Commission the power to make appointments under subsection (1), subject to such limitations as may be specified in the Order.

14. (1) Whenever there is a special necessity for the appointment of a Quazi otherwise than under section 12 or section 13, it shall be lawful for the Judicial Service Commission to appoint any male Muslim of good character and position and of suitable attainments to be a special Quazi. Special Quazis. [§4,1 of 1965.]

(2) A special Quazi may be appointed under this section either for the whole of Sri Lanka or for any area thereof.

(3) In appointing a special Quazi, the Judicial Service Commission may specify [§4,1 of 1965.] the conditions or restrictions subject to which such Quazi shall perform his duties and functions under this Act; and such Quazi shall not act otherwise than in accordance with such conditions or restrictions.

(4) Every appointment of a special Quazi shall be notified in the Gazette.

[§4,1 of 1965.]

(5) The Judicial Service Commission may in its discretion cancel the appointment of a special Quazi by notification in the Gazette.

Board or Quazis.
[§5. 1 of 1965.]

15. (1) The Judicial Service Commission may appoint a Board of Quazis, consisting of five male Muslims resident in Sri Lanka, who are of good character and position and of suitable attainments, to hear appeals from the decisions of the Quazis under this Act.

(2) The appointment of the members of the Board of Quazis shall be notified in the Gazette.

(3) (a) Three members of the Board of Quazis shall form a quorum of that board.

(b) No appeal shall be heard by the Board of Quazis unless a quorum is present,

(c) The decision of a majority of the members of the Board of Quazis who are present at the hearing of an appeal shall for all purposes be deemed to be the decision of the board.

[§5,1 of 1965.]

(4) The Judicial Service Commission may, in any special circumstances, terminate the appointment of any member of the Board of Quazis by notification in the Gazette.

[§5,1 of 1965.]

(5) Where the appointment of a member of the Board of Quazis is terminated by the Judicial Service Commission or any such member dies or resigns his office or, without the consent of the Judicial Service Commission leaves Sri Lanka for a period exceeding three months, the Judicial Service Commission may appoint a suitable person to fill the vacancy.

[§3,32 of 1969.]

(6) The Registrar-General may appoint a person to be or to act as the secretary to the Board of Quazis, and the person so appointed shall perform all such duties and functions as may be assigned to the secretary by the provisions of this Act or the

regulations thereunder or by a decision of the Board of Quazis not inconsistent with any such provision.

PART II

REGISTRATION OF MARRIAGES

16. Nothing contained in this Act shall be construed to render valid or invalid, by reason only of registration or non-registration, any Muslim marriage or divorce which is otherwise invalid or valid, as the case may be, according to the Muslim law governing the sect to which the parties to such marriage or divorce belong.

Validity or invalidity of Muslim marriages.

17. (1) Save as otherwise hereinafter expressly provided, every marriage contracted between Muslims after the commencement of this Act shall be registered, as hereinafter provided, immediately upon the conclusion of the *Nikah* ceremony connected therewith.

Duty of causing marriage to be registered.

(2) In the case of each such marriage, the duty of causing it to be registered is hereby imposed upon the following persons concerned in the marriage :—

(a) the bridegroom; and

(b) in every case where the consent of the *wali* has not been dispensed with under section 47 and is required by the Muslim law governing the sect to which the bride belongs, the *wali* of the bride ; and

(c) the person who conducted the *Nikah* ceremony connected with the marriage.

(3) For the purpose of causing the marriage to be registered, it shall be the duty of the person specified in subsection (2)—

(a) to give to the registrar information of the date on which and the time and place at which the *Nikah* ceremony is to take place, and to request him to attend the ceremony for the purpose of registering the marriage ; and

(b) immediately upon the conclusion of the *Nikah* ceremony, to call upon the registrar to register the marriage, and for that purpose to render him all such assistance and take all such other measures as may be necessary.

(4) Where the registrar, notwithstanding that the acts or measures required by subsection (3) have been done or taken, neglects or refuses to register the marriage, it shall be the duty of the persons specified in subsection (2) to send to the District Registrar, within the seven days next succeeding the date of the *Nikah* ceremony, a written report setting out the following particulars relating to the marriage :—

- (a) the names of the parties to the marriage,
- (b) the date on which and the time and place at which the *Nikah* ceremony was conducted,
- (c) the name of the *wali*, if any,
- (d) the name of the person who conducted the *Nikah* ceremony.

(5) Where any marriage which is required by this Act to be registered is not registered owing to default in doing or taking any act or measure required by any of the preceding provisions of this section, every person on whom the duty of doing or taking that act or measure is imposed by that provision shall be deemed to have failed to cause the marriage to be registered.

(6) The court convicting any person of the offence of failing to cause a marriage to be registered or of failing to send the District Registrar a report as to any marriage which the registrar has neglected or refused to register, shall send to the District Registrar, as early as may be after the close of the proceedings in respect of the offence, a report setting out such particulars relating to the marriage as are required by subsection (4).

(7) It shall be the duty of the District Registrar, on receipt of any report under subsection (4) or subsection (6), to satisfy

himself by such inquiry or investigation as may appear to him to be adequate, that the marriage has taken place and that it has not been registered, to verify the particulars furnished in the report and amend them if they are not correct, and to make order directing that the marriage be registered with the particulars verified or amended; and it shall be the duty of the registrar specified in the order to register the marriage accordingly.

18. (1) Before the registration of a marriage, there shall be made and signed in the presence of the registrar—

Declaration and form of registration.

- (a) a declaration by the bridegroom substantially in form II set out in the First Schedule ; and
- (b) a declaration by the *wali* of the bride substantially in form III set out in that Schedule:

Provided that the declaration by a *wali* shall not be required in any case where the consent of a *wali* has been dispensed with under section 47 or where no *wali* is necessary according to the Muslim law governing the sect to which the bride belongs;

Provided further that where the *wali* making a declaration is a person other than her father or paternal grandfather, the bride shall also sign the declaration made by such *wali*.

It shall be the duty of the registrar to require the bridegroom, and, where necessary under the preceding provisions, the *wali* and the bride, to sign such declarations-

(2) After the signing of the declarations referred to in subsection (1), the registrar shall enter, in Sinhala or in Tamil, a statement of the particulars of the marriage, in triplicate, that is to say, the original, the second copy (hereinafter referred to as the "duplicate"), and a third copy, in a marriage register, which he is hereby required to keep for that purpose substantially in form IV set out in the First Schedule. The third copy shall bear an

[§7, Law 41 of 1975.]

endorsement under the hand of the registrar to the effect that it is issued under section 19A.

commencing with the first page for the first marriage to be registered; and

[§7, Law 41 of 1975.]

(3) The prescribed fee shall be paid in stamps which shall be supplied by the bridegroom. Such stamps shall be affixed to the duplicate of the entry relating to the marriage and shall be duly cancelled by the registrar.

(b) be numbered consecutively in that register, in the order of time in which the registrar is called upon to register those marriages.

Entries of marriage to be signed and attested. [§7, Law 41 of 1975.]

19. (1) The statement of particulars entered in the register in respect of each marriage shall be signed in the original, the duplicate and the third copy, by—

21. It shall be the duty of a registrar appointed for any area under section 8 or section 9 to attend the solemnization of a marriage between Muslims within that area for the purpose of registering the marriage, on being required so to do by the bridegroom or the *wali* of the bride or the person by whom the *Nikah* ceremony is to be conducted: Attendance of registrar at marriage.

- (a) the bridegroom; and
- (b) in every case where the consent of the *wall* has not been dispensed with under section 47 and is required by the Muslim law governing the sect to which the bride belongs, the *wall* of the bride; and
- (c) the person who conducted the *Nikah* ceremony connected with the marriage; and
- (d) two witnesses, being persons present at the *Nikah* ceremony; and
- (e) the registrar.

Provided that nothing in the preceding provisions of this section shall affect or be construed to affect the right of a registrar to refuse to register any marriage sought to be registered in contravention of the provisions of this Act or of any regulation made thereunder;

Provided further that where a registrar is required to attend as aforesaid at two or more places at the same time or on the same date, he shall be entitled to stipulate for a readjustment of the time or the date of any of the marriages concerned, or, if such readjustment is not possible, to decline to be present at any one or more of such marriages.

(2) Where the registrar has himself conducted the *Nikah* ceremony at any marriage, it shall be sufficient if he inserts in the register the words "Registrar of Muslim Marriages" in the space intended for the signature of the person conducting the *Nikah* ceremony and signs the register in his capacity as registrar.

22. Notwithstanding anything in section 17, a marriage contracted by a Muslim woman during her period of *iddat* shall not be registered under this Act. Marriage during *iddat* not to be registered.

Issue of copy of registration entry free. [§7, Law 41 of 1975.]

19A, The third copy referred to in the preceding section shall forthwith, free of charge, be delivered or transmitted by post to the female party to the marriage by the registrar.

23. Notwithstanding anything in section 17, a marriage contracted by a Muslim girl who has not attained the age of twelve years shall not be registered under this Act unless the Quazi for the area in which the girl resides has, after such inquiry as he may deem necessary, authorized the registration of the marriage. Marriage of girl who has not attained the age of twelve not to be registered without Quazi's permission.

Marriages to be registered and numbered consecutively.

20. The marriages to be registered under this Act in the marriage register kept by each registrar shall—

24. (1) Where a married male Muslim living with or maintaining one or more wives intends to contract another marriage, he shall, at least thirty days before contracting such other marriage, give notice Second or subsequent marriages.

- (a) be entered, each on a page, on consecutive pages of that register,

of his intention to the Quazi for the area in which he resides, and to the Quazi or Quazis for the area in which his wife or each of his wives resides, and to the Quazi for the area in which the person whom he intends to marry resides.

(2) Every notice required by subsection (1) shall be in the prescribed form and shall contain the full names and addresses of the person giving the notice and of his wife or each of his wives and of the person with whom he intends to contract a marriage.

(3) It shall be the duty of every Quazi to whom notice is given under subsection (1) to cause a copy of such notice to be exhibited at each of the Jumma mosques within his area, and in some conspicuous place at each address (being an address within his area) which is specified in such notice.

(4) Notwithstanding anything in section 17, no marriage contracted by any male Muslim of the description set out in subsection (1) without giving the notices required by that subsection shall be registered under this Act.

25. (1) For the avoidance of doubt it is hereby declared that no contract of marriage of a woman belonging to the Shaffie sect is valid under the law applicable to that sect, unless—

- (a) a person entitled to act as her *wall*—
 - (i) is present at the time and place at which the contract is entered into; and
 - (ii) communicates her consent to the contract and his own approval thereof; or
- (b) the Quazi has under section 47, authorized the marriage and dispensed with the necessity for the presence and the approval of a *wall*.

(2) A marriage which is invalid under the law referred to in subsection (1) shall not be registered under this Act.

26. (1) No person shall knowingly act as *Wali* of bride. *wali* at the marriage of a Muslim woman, unless he is entitled according to the Muslim law governing the sect to which the bride belongs, to act as *wali* to that bride.

(2) No marriage at which any person has acted as *wali* in contravention of the provisions of subsection (1) shall be registered under this Act.

PART III

REGISTRATION OF DIVORCES

27. Where a husband desires to divorce his wife the procedure laid down in the Second Schedule shall be followed. Divorce by husband.

28. (1) Where a wife desires to effect a divorce from her husband, without his consent, on the ground of ill-treatment or on account of any act or omission on his part which amounts to a " fault " under the Muslim law governing the sect to which the parties belong, the procedure laid down in the Third Schedule shall be followed, Divorce by wife.

(2) Where a wife desires to effect a divorce from her husband on any ground not referred to in subsection (1), being a divorce of any description permitted to a wife by the Muslim law governing the sect to which the parties belong, the procedure laid down in the Third Schedule shall be followed so far as the nature of the divorce claimed in each case renders it possible or necessary to follow that procedure.

29. (1) The Quazi who is required in accordance with the Second Schedule or Third Schedule to register a divorce shall enter, in Sinhala or in Tamil, a statement of the particulars of the divorce in triplicate, that is to say, the original, the second copy (hereinafter referred to as the " duplicate ") and a third copy, in a divorce register, which he is hereby required to keep for that purpose substantially in form V set out in the First Schedule. The third copy shall bear an endorsement under the hand of the Quazi to the effect that it is issued under section 29 (5). Registration of divorce. [§7, Law 41 of 1975.]

(2) The entries relating to any divorce in the divorce register shall be signed in the

Declaration of Shaffle law as to marriage of women of that sect.

original, and in the duplicate and in the third copy by the Quazi and by the husband and wife if present at the time the entries are made.

(3) The divorces to be registered under subsection (1) in the divorce register shall—

(a) be entered, each on a page, on consecutive pages of that register, commencing with the first page for the first divorce to be registered, and

(b) be numbered consecutively in that register, in the order of time in which the Quazi registers those divorces.

(4) The party applying for a divorce shall pay the prescribed fee to the Quazi as soon as the proceedings for the divorce are commenced. The prescribed fee shall be paid in stamps and such stamps shall be affixed to the duplicate of the entries relating to the divorce and shall be duly cancelled by the Quazi.

(5) Upon the registration of a divorce the third copy referred to in this section shall forthwith, free of charge, be delivered or transmitted by post to the party applying for the divorce by the Quazi.

PART IV

SPECIAL PROVISION FOR EARLIER DIVORCES AND REMARRIAGES

Registration of divorces in cases where proof of divorce is inadequate,

30. Where, in any proceedings before a Quazi under this Act, a Muslim husband states that he has at any time earlier (whether before or after the commencement of this Act) divorced his wife, but is unable to prove that a divorce was in fact effected, the statement of the husband at such proceedings shall be deemed to be the pronouncement of a *talak* under the Muslim law and shall be recorded accordingly under the rules in the Second Schedule, and the provisions of those rules relating to the procedure to be followed after the pronouncement of a *talak* is recorded shall *mutatis mutandis* apply in that case:

Provided that the divorce shall not be registered in any such case until the expiry

of a period of three months from the date on which the pronouncement of the *talak* is recorded as aforesaid, or, if the wife is pregnant at the expiry of that period, until she is delivered of the child.

31. Every divorce or remarriage duly registered in the manner required by section 23 of the Muslim Marriage and Divorce Registration Ordinance, 1929,* shall be deemed to be valid and to have been duly effected or contracted, as the case may be, on the original date of such divorce or remarriage, and all children born of such remarriage shall be deemed to be legitimate children of such remarriage.

Effect of registration of divorce or remarriage.

32. (1) Where a marriage or divorce contracted or effected on or after the 1st day of January, 1937, has not been registered or has been registered with erroneous particulars, it shall be lawful for either of the parties to the marriage or the divorce, or, where either of them is dead, for the issue or other lawful representative of any such party, to apply to the District Registrar of the district in which such marriage or divorce was contracted or effected to have such marriage or divorce registered or the erroneous particulars rectified, as the case may be. On receipt of such application the District Registrar shall cause the officiating or other priest or registrar or Quazi before whom the marriage or divorce, as the case may be, was contracted or effected and any other persons whom he may consider it expedient to hear, to be served with a notice to show cause why such application should not be granted- If no sufficient cause is shown to the contrary and the District Registrar is satisfied, after hearing such evidence as may be adduced, that such marriage or divorce was in fact contracted or effected and that it has not been registered or has been registered with erroneous particulars, he shall by order under his hand direct the marriage or divorce to be registered or the erroneous particulars to be rectified, as the case may require.

Power to register marriages and divorces omitted to be registered and to rectify errors in registration.

(2) To every application made under subsection (1), stamps of the prescribed value shall be affixed by the applicant.

* Repealed by Act No. 13 of 1951.

Certain powers of District Registrar under section 32 exercisable by Registrar-General. [§4, 32 of 1969.]

33. The powers conferred on a District Registrar under section 32 in relation to the rectification of erroneous particulars relating to a marriage or divorce, may be exercised by the Registrar-General.

38. (1) Where, in any proceedings under this Act for *mahr* or *kaikuli*, a woman claimant is represented by some other person under section 37, all moneys received by a Quazi to which that woman is entitled as the claimant shall, notwithstanding anything in section 53, be deposited by the Quazi in the kachcheri in the name of such claimant.

Disposal of moneys received by Quazi in claims where party is represented under section 37.

PART V

PROVISIONS RELATING To MAINTENANCE, " MAHR " AND " KAIKULI "

Claims for wife's maintenance.

34. A wife or any person on behalf of a wife shall not be entitled to claim or to receive maintenance in respect of any period during which the wife lives or has lived with her husband whether on the orders of a Quazi or otherwise.

(2) No money deposited by a Quazi in a kachcheri under subsection (1) shall be withdrawn by any person unless the Quazi has in writing authorized such withdrawal; and the Quazi shall not authorize the withdrawal of the whole or any part of any money deposited as aforesaid unless he is satisfied that such money will be used for the maintenance or benefit of the woman on whose behalf the claim was made.

Claims for child's maintenance.

35. (1) A child or any person on behalf of a child shall not be entitled to claim or to receive maintenance in respect of any period during which the child is or was living with or supported by the father.

39. The time for the prescription or limitation of a suit or action for the whole or part of a woman's *mahr* shall not begin to run until the dissolution of the marriage by death or divorce, and such suit or action shall be maintainable if commenced within three years from the date of such dissolution of marriage.

Prescription of action for *mahr*.

(2) In allowing any claim for maintenance by or on behalf of a child a deduction shall be made of the sums which may have been paid by the father for the use or support of the child between the date of the claim and the date of the order allowing the claim.

PART VI

POWERS AND DUTIES OF REGISTRAR-GENERAL, DISTRICT REGISTRARS, BOARD OF QUAZIS, QUAZIS AND REGISTRARS

Orders for payment of maintenance from date of claim.

36. Subject to the provisions of sections 34 and 35, where an order is made allowing a claim for maintenance by or on behalf of a wife or child, the authority making the order may specify therein that the order shall have effect from the date of the claim, and, in every such case, maintenance, in accordance with the order, shall be payable from the date on which such claim was made.

40. The Registrar-General or any District Registrar may inspect or cause to be inspected from time to time the books and registers required to be kept under this Act by the Quazis and registrars, and may hear any complaints respecting any such books or registers, or the conduct of any of the registrars.

Power of Registrar-General and District Registrars to inspect registers, Ac. [§5,32 of 1969.]

Representation of woman in claiming for *mahr* or *kaikuli*.

37. Where it is proved to the satisfaction of a Quazi that a woman claiming or intending to claim *mahr* or *kaikuli* is, through sickness, infirmity or other reasonable cause, unable to appear in person, the Quazi may permit any fit and proper person authorized in that behalf by the claimant and approved by the Quazi, to institute proceedings or to appear on behalf of the claimant.

41. All moneys paid to a District Registrar by a Quazi in pursuance of the provisions of the second proviso to section 52 (1) shall be disposed of by the District Registrar in such manner as may be prescribed.

Power of District Registrar to dispose of money paid under section 52.

42. Every District Registrar shall cause to be bound together in a general register all copies of entries sent to him by Quazis in pursuance of the provisions of section 54,

Duty of District Registrar to cause copies of Quazis' entries to be bound.

Power of Board of Quazis to call for records.

43. The Board of Quazis may call for and examine the record of any proceedings before a Quazi under this Act in respect of any matter (whether such matter has been tried or inquired into or is pending trial or inquiry) for the purpose of satisfying itself as to the legality or propriety of any order passed therein or as to the regularity of the proceedings.

subsection (1) and communicate its opinion thereon to the Quazi who referred the question; and such Quazi shall, in the proceedings in which the question arose, be bound by such opinion.

47. (1) The powers of the Quazi under this Act shall include the power to inquire into and adjudicate upon— General powers of Quazis.

Revisory powers of Board of Quazis.

44. (1) The Board of Quazis may, in respect of any proceedings before a Quazi the record of which has been called for, in its discretion exercise any of the powers conferred upon it for the purposes of its appellate jurisdiction.

(a) any claim by a wife for the recovery of *mahr*;

(b) any claim for maintenance by or on behalf of a wife ;

(2) No order under this section shall be made by the Board of Quazis to the prejudice of any person unless he has had an opportunity of being heard either in person or by his representative.

(c) any claim for maintenance by or on behalf of a legitimate child ; [§6,1 of 1965.]

(3) Every order made by the Board of Quazis under this section shall have the same effect as an order made on appeal from an order made by a Quazi.

(cc) notwithstanding anything to the contrary in section 2, any claim for maintenance by or on behalf of an illegitimate child, where the mother of such child and the person from whom maintenance is claimed are Muslims;

Duty of Board of Quazis to furnish Registrar-General with opinions on questions of Muslim law.

45. The Board of Quazis shall, at the written request of the Registrar-General, furnish him with a written opinion on any question of Muslim law which may arise in connection with the administration of this Act or of any regulation made thereunder.

(d) any claim by a divorced wife for maintenance until the registration of the divorce or during her period of *iddat*, or, if such woman is pregnant at the time of the registration of the divorce, until she is delivered of the child ;

Duty of Board of Quazis to advise on questions of law submitted by a Quazi.

46. (1) Any Quazi may if he thinks fit reserve for the consideration of the Board of Quazis any question of Muslim law which arises in any proceedings before him, and, where any question of law is so reserved, no further steps shall be taken in such proceedings until the opinion of the board is communicated to him.

(e) any claim for the increase or reduction of the amount of any maintenance ordered under this section or under section 21 of the Muslim Marriage and Divorce Registration Ordinance, 1929 ;*

(2) Every Quazi reserving a question of Muslim law under subsection (1) shall submit the question in writing in the form of a special case, and shall state shortly the facts, if any, which are relevant to the consideration of the question.

(f) any claim for *kaikuti*;

(3) The Board of Quazis shall, as soon as may be, determine every question of law reserved for its consideration under

(g) any claim by a wife or a divorced wife for her lying-in expenses;

(h) any application for mediation by the Quazi between a husband and wife;

(i) any application for a declaration of nullity of marriage either by a husband or by a wife;

*Repealed by Act No. 13 of 1951.

(j) any application for authority to register the marriage of a girl who has not passed the age of twelve years:

Provided that no variation or alteration of any maintenance ordered under this section or under section 21 of the Muslim Marriage and Divorce Registration Ordinance, 1929,* shall be made except upon good and sufficient cause shown to the Quazi and after notice to all the parties concerned.

(2) A Quazi may inquire into and deal with any complaint by or on behalf of a woman against a *wali* who unreasonably withholds his consent to the marriage of such woman, and may if necessary make order authorizing the marriage and dispensing with the necessity for the presence or the consent of a *wali*.

(3) Where a woman has no *wali*, a Quazi may, after such inquiry as he may consider necessary, make order authorizing the marriage and dispensing with the necessity for the presence or the consent of a *wali*^

(4) Where an order is made under subsection (2) or subsection (3) authorizing any marriage, a permit authorizing the registration thereof shall be issued by the Quazi, but no such permit shall be issued until the expiry of a period of ten days from the date of the order, or, where an appeal is preferred against such order, unless such order is confirmed by the Board of Quazis, or, in the event of a further appeal, by the Court of Appeal.

(5) In this section "divorced wife" includes a wife against whom the *talak* has been pronounced, and who has not been taken back by the husband.

(6) Every inquiry under this section shall be held as nearly as possible in accordance with the rules in the Fourth Schedule, but no Muslim assessors shall be empanelled for the purpose of assisting the Quazi at such inquiry.

48. Subject to any special provision in that behalf contained in this Act, the jurisdiction exercisable by a Quazi under section 47 shall be exclusive and any matter falling within that jurisdiction shall not be tried or inquired into by any other court or tribunal whatsoever.

Quazi to have exclusive jurisdiction to inquire into matters specified in section 47.

49. Every Quazi shall take an oath of office in the prescribed form as soon as may be after his appointment and before he commences to exercise any powers or perform any duties or functions under this Act.

Quazis' oath of office.

50. Every Quazi is hereby empowered to administer oaths to witnesses or to Muslim assessors in the course of any inquiry or other proceedings held or taken by him under this Act.

Power of Quazi to administer oaths.

51. (1) Every Quazi shall, before he commences to perform any of the functions of his office, enter into a bond in the sum of one thousand rupees conditioned for the due and faithful discharge of his duties.

Quazis to enter into security bonds.

(2) In the case of a Quazi appointed under section 12 or section 13 the bond shall be executed before the District Registrar, and in the case of a Quazi appointed under section 14 the bond shall be executed before the Registrar-General or any District Registrar authorized for the purpose by the Registrar-General.

(3) The aforesaid sum shall be secured to the State, either by the hypothecation of immovable property or by deposit of movable property, or by the guarantee of two or more sufficient sureties in that behalf to the satisfaction of the District Registrar or Registrar-General, as the case may be.

(4) Each such bond shall be filed in the office of the District Registrar or of the Registrar-General as the case may be.

52. (1) A record of each sum of money received by a Quazi under any of the provisions of this Act or the regulations thereunder shall forthwith be made by him in the prescribed book and such money shall forthwith be paid by him to the person entitled thereto:

Quazis to keep record of moneys received and paid by them.

* Repealed by Act No. 13 of 1951.

Provided that where the person entitled to any money is a child under fourteen years of age such payment may be made by the Quazi in his discretion to the person who from time to time has the custody of that child;

Provided further that where the person entitled to any money cannot be found or does not claim the money within the period of one month after the date on which the Quazi received such money, the Quazi shall pay such money to the District Registrar.

(2) A record of each sum of money paid by a Quazi in pursuance of the provisions of subsection (1) shall forthwith be made by him in the prescribed book and every such payment must be supported by a receipt in the prescribed form signed by the payee.

Quazis to report to District Registrar sums deposited or withdrawn under section 38.

53. Every Quazi who deposits any money in or authorizes the withdrawal of any money from a kachcheri in pursuance of the provisions of section 38 shall forthwith report to the District Registrar the amount so deposited or to be withdrawn, the date on which the deposit was made or the withdrawal was authorized, the name of the claimant and any other particulars which may be prescribed.

Quazis to send copies of entries and indexes to District Registrar each month.

54. Unless otherwise provided by regulation, every Quazi shall, at the close of each month, send to the District Registrar copies, verified on oath in the prescribed form, of all entries made by him in his books or registers or in the indexes thereto during that month.

The preceding provisions of this section shall not apply to the records of proceedings before a Quazi or to entries in the divorce register.

Quazis and registrars to keep indexes of books and registers.

55. Every Quazi and every registrar shall keep, in the prescribed form, a current index of the contents of every book and register kept by him, except where it is otherwise provided by regulation; and every entry in such index shall be made, so far as practicable, immediately after he has made an entry in the book or register,

56. (1) Except in such cases or on such occasions as may be prescribed or except on the orders of a competent court, no Quazi or registrar shall permit any other person to take possession or to have the custody of any register, book, or other document required to be kept by such Quazi or registrar under this Act. Custody of registers, &c., by Quazis and registrars.

(2) Every Quazi and every registrar shall keep all registers, books, and indexes until they are filled up and shall then forward them for record to the District Registrar,

(3) Where a Quazi or registrar leaves the area for which he is appointed, or resigns his office, or where his appointment is cancelled, he, or in the event of his death, his legal representative, shall forthwith deliver his books, registers, and indexes to the District Registrar; and on failure of such delivery, the District Registrar shall take possession of them.

(4) No person other than a Quazi or a registrar shall keep any book or register which is or purports to be a register of Muslim marriages or divorces, or any record of proceedings relating to divorces effected or purporting to have been effected by any other person, under the provisions of this Act or the Muslim Marriage and Divorce Registration Ordinance, 1929.*

57. Every Muslim assessor who is empanelled for the purposes of this Act shall take an oath in the prescribed form before he functions as an assessor. Muslim assessor's oath.

58. (1) The registrar who registers a marriage or the Quazi who registers a divorce shall detach the duplicate from the marriage register or the divorce register, as the case may be, and send such duplicate and in the case of a marriage, the declarations under section 18 (1), on or before the fifth day of the month following that in which the marriage or divorce was registered, to the District Registrar. Duty to send to District duplicates from marriage and divorce registers.

(2) Where a marriage is registered by a registrar authorized under the proviso to section 11, he shall, in addition to complying with the requirements of subsection (1), send certified copies of the statement of particulars entered in the marriage register, of the declarations, and of

* Repealed by Act No. 13 of 1951.

the letter authorizing him to register the marriage, to the District Registrar having jurisdiction over the area in which the marriage is registered.

(3) All duplicates and declarations sent to the District Registrar in accordance with the provisions of subsection (1) shall be forwarded by him to the Registrar-General who shall cause such duplicates and declarations to be filed and preserved in his office.

59. (1) Every registrar shall be entitled to demand and to receive as his own remuneration a fee at the prescribed rate from the prescribed persons for the performance of each of his duties under this Act.

(2) Every registrar shall keep posted in a conspicuous part of his house, a table setting out, in Sinhala, Tamil and English, the fees prescribed for the performance of each of the duties of a registrar under this Act.

PART VII

APPEALS

60. (1) Any party aggrieved by any final order made by a Quazi under the rules in the Third Schedule or in any inquiry under section 47 shall have a right of appeal to the Board of Quazis:

Provided that there shall be no appeal from an order absolute made in accordance with the rules in the Fourth Schedule in any inquiry under section 47.

(2) All appeals under this section shall be heard and disposed of in accordance with the rules in the Fifth Schedule.

61. Every order made by the Registrar-General refusing or cancelling or recalling a certificate of appointment under section 8 shall be subject to appeal to the Minister, and every order made by a District Registrar under section 32 shall be subject to appeal to the Registrar-General, and every such appeal shall be preferred within fourteen days after the order appealed from is notified to the party or parties concerned.

62. (1) Any party aggrieved by any order of the Board of Quazis on any appeal under section 60 may, with the leave of the Court of Appeal first had and obtained, appeal to that court from such order.

(2) The Supreme Court may, from time to time, make such general rules as to it shall seem meet for regulating the mode of applying for leave to appeal and of prosecuting appeals from orders of the Board of Quazis and for regulating any matters relating to the costs of such applications for leave to appeal and of appeals.

63. Notwithstanding anything in any rule in the Fifth Schedule or in any regulation under this Act relating to appeals against orders made by Quazis, it shall be competent for the Board of Quazis—

(a) where any appeal is filed out of time, to entertain the appeal if the board is satisfied that the appeal could not be filed in time owing to illness, accident, misfortune or other unavoidable cause; or

(b) where a petition of appeal is not stamped or is insufficiently stamped, to entertain the appeal if the petitioner pays in stamps an amount equal to twice the value of the stamps that should have been affixed or twice the deficiency, as the case may be.

PART VIII

ENFORCEMENT OF ORDERS

64. (1) Any sum claimed in any proceedings under section 47 (other than proceedings for the recovery of *mahr* or *kaikuli*) and allowed by the Quazi, or on appeal, by the Board of Quazis, or, in the case of a further appeal, by the Court of Appeal, may in case of default of payment be recovered as though it were a fine imposed under this Act, on application made to the Magistrate having jurisdiction in the area within which the person liable to pay such sum is for the time being resident.

(2) Every application under subsection (1) shall be made by the Quazi and shall be

Appeals to court of Appeal.

Appeal notwithstanding lapse of time, &c.

Recovery of sums due on claims, &c., under section 47 other than claims for *mahr* or *kaikuli*.

Fees chargeable by registrars.

Appeals from Quazis' orders.

Appeals from the Registrar-General's or District Registrars' orders. [§6.32 of 1969.]

supported by a certificate under his hand stating the amount of the sum due, the name of the person liable to pay such sum, the name or names of the person or persons entitled thereto, and whether the proceedings in which the order requiring the payment was made were *inter panes* or *ex pane*.

(3) Every sum referred to in subsection (1) may be recovered as a fine notwithstanding that such sum exceeds the amount of the maximum fine which the Magistrate may in his ordinary jurisdiction impose, and when recovered shall be remitted to the Quazi for payment in due course to the person thereto entitled.

Recovery of sums due on claims for *mahr* or *kaikuli*.

65. (1) In allowing any claim under section 47 for the recovery of *mahr* or *kaikuli* the Quazi, or on appeal, the Board of Quazis, or in the case of a further appeal, the Court of Appeal, may make order that the sum so allowed shall be paid to the Quazi in such instalments and on such dates as may be specified in the order.

(2) Where default is made in the payment of any instalment specified in an order made under subsection (1), the Quazi may, in his discretion, by notice under his hand served on the person liable to make such payment, require such person to pay to the Quazi, within such period as may be specified in the notice, the aggregate of all such instalments then outstanding; and where such person fails to comply with such notice within the specified period, the Quazi may send to the Primary Court having jurisdiction within the area for which he is appointed, a certificate under his hand specifying the aggregate amount outstanding, the name of the person liable to pay such amount, the name of the person entitled to such amount and such other particulars as may be prescribed.

No such certificate shall be made out except upon payment to the Quazi, by the person entitled to such amount of the prescribed stamp duty,

(3) Every certificate sent under subsection (2) shall be registered by the Judge of the Primary Court and shall be deemed to be a decree to pay money entered

by such court on the date of such registration, notwithstanding that the aggregate amount specified in such certificate may exceed the maximum amount which that court may award in the exercise of its ordinary jurisdiction, and shall be binding on all parties concerned and may be enforced in the same manner as a decree of such court. All further proceedings in the Primary Court in connexion with such certificate shall be liable to stamp duty as if they were proceedings in an action for the amount specified in such certificate:

Provided that where such amount exceeds one thousand five hundred rupees, stamp duty shall be leviable as though such amount were one thousand five hundred rupees.

(4) There shall be no appeal to the Court of Appeal from any order made by the Judge of a Primary Court in any proceeding taken under the preceding provisions of this section.

66. Where any person against whom an order for maintenance is made by a Quazi under this Act fails or neglects to comply with the order, the Magistrate to whom application is made by the Quazi under section 64 may for every breach of the order issue a warrant directing the amount due to be levied in the manner provided by law for levying fines imposed by Magistrates, and may sentence such person, in respect of the whole or any part of any monthly allowance remaining unpaid by such person after the execution of the warrant, to imprisonment of either description for any term not exceeding one month:

Procedure on failure to orders for maintenance.

Provided that if the Quazi has certified that the proceedings in which the order was made were *ex pane* and the person against whom the order was made informs the Magistrate that he desires to have such proceedings reopened, the Magistrate shall release such person on his executing a bond in a reasonable sum conditioned for his appearance in the Magistrate's Court on a date to be fixed by the Magistrate, or if the application to reopen such proceedings is dismissed by the Quazi, within three days of the dismissal of such application whichever date is the earlier.

PART IX

GENERAL

Transfer of proceedings from one Quazi to another. [§7,32 of 1969.]

67. Where it appears to the Judicial Service Commission, on the application of any party to, or any person interested in, any proceedings instituted or to be instituted under this Act before a Quazi, that a fair and impartial inquiry cannot be had before such Quazi, or where a Quazi himself makes an application in that behalf to the said Commission, the Commission may order that such proceedings be instituted before and heard by a special Quazi appointed in that behalf by the Commission under section 14 and, in the event of any such order being made, any proceedings taken before the first-mentioned Quazi in respect of the matter to which such application relates shall be of no effect.

Registers and indexes to be open to inspection.

68. The records of any proceedings pending before the Board of Quazis or before any Quazi, and the general register and the books, registers and indexes of Quazis and registrars (whether kept under this Act or the Muslim Marriage and Divorce Registration Ordinance, 1929 *), shall be open to inspection at all reasonable hours upon the payment of the prescribed fee by any person applying for permission to inspect them; and the Registrar-General or a District Registrar or the secretary to the Board of Quazis or a Quazi or a registrar shall, at the request of any person and upon payment of the prescribed fee, issue to that person a copy of any entry therein, certified under his hand to be a true copy.

Records kept under earlier law to be open to inspection.

69. All documents which were required to be kept under the Mohammedan Marriage Registration Ordinance, 1886, f and which are in the custody of any District Registrar shall be open to inspection at all reasonable hours, upon the payment of the prescribed fee by any person applying for permission to inspect the same; and the District Registrar shall, at the request of any person and upon payment of the prescribed fee, issue to that person a copy of any such document or of any entry therein, certified under his hand to be a true copy.

70. Every book or register of a Quazi or of a registrar, and every general register, and every copy of every entry in any such book or register and every extract therefrom, certified under the hand of the Registrar-General or a District Registrar or the Secretary to the Board of Quazis or a Quazi or a registrar to be a true copy or extract, and every document referred to in section 69 and every copy of any such document or any entry in any such document certified under the hand of the District Registrar to be a true copy issued under section 19A and section 29 (5) shall be prima facie evidence in all courts of the dates and facts contained or set out in such book, register, general register, copy or extract.

Registers and copies to be evidence. [§7, Law 41 of 1975.]

71. A certified copy of the entry in the register of marriages kept under section 18 or in the register of divorces kept under section 29 of this Act or in any register heretofore kept under the Mohammedan Marriage Registration Ordinance, 1886, f or under the Muslim Marriage and Divorce Registration Ordinance, 1929,* shall be accepted and received in all courts as the best evidence of the marriage or divorce, as the case may be, to which the entry relates.

Entry in the register of marriages or in the register of divorces to be best evidence.

72. Blank books for registers and blank books for all other records required to be kept by Quazis and registrars shall be furnished free of charge by the District Registrar on the application of any Quazi or registrar.

Books, &c., to be supplied free. [§7, Law 41 of 1975.]

73. Every member of the Board of Quazis, the secretary to that board, and every Quazi, shall be deemed to be a public servant within the meaning of the Penal Code, and all proceedings before the Board of Quazis or before a Quazi under the provisions of this Act shall be deemed to be judicial proceedings within the meaning of Chapter XI of the Penal Code.

Members of the Board of Quazis, secretary to the Board of Quazis and Quazis deemed to be public servants.

74. No attorney-at-law shall be entitled or permitted to appear on behalf of any party or witness in any proceedings before a Quazi under this Act.

Representation of parties and witnesses before Quazis.

* Repealed by Act No. 13 of 1951.
+ Repealed by Ordinance No. 27 of 1929.

The preceding provisions of this section shall not apply in the case of any proceedings before the Board of Quazis.

other document kept for the purposes of this Act or in any register or other document which was required to be kept under the Muslim Marriage and Divorce Registration Ordinance, 1929, * or under the Mohammedan Marriage Registration Ordinance, 1886, f may, after due inquiry, be corrected by the Registrar-General or by any person authorized in that behalf by the Registrar-General, in such circumstances and in accordance with such conditions and procedure as may be prescribed.

Duty of police officers and grama seva niladhari to assist Quazis.

75. It shall be the duty of every police officer or grama seva niladhari to aid and assist the Board of Quazis and the Quazis in the exercise of the powers and jurisdiction or the performance of the duties conferred or imposed on them by this Act.

Damage of duplicate and original entries, and reconstruction of duplicate and original entries. [§7, Law 41 of 1975.]

76. (1) Where the original of any marriage or divorce entry made by a registrar or a Quazi is lost, damaged, has become illegible or is in danger of becoming illegible, the Registrar-General may, if the duplicate is available, cause the missing document to be replaced by a copy of such duplicate, such copy being certified by the Registrar-General to be a true copy. Every such copy so certified shall replace the original and shall, for all purposes, be deemed to be the original of such entry.

78. For the purposes of this Act the Forms. forms set out in the First Schedule shall be used with such variations as may be necessary for any particular case.

PART X

OFFENCES AND PENALTIES

(2) Where the duplicate of any marriage or divorce entry made by a registrar or a Quazi is lost, damaged, has become illegible or is in danger of becoming illegible, the Registrar-General may, if the original of such entry is available, cause the missing document to be replaced by a copy of such original, such copy being certified by the registrar or the Quazi to be a true copy and countersigned by the District Registrar. Every such copy so certified and countersigned shall, for all purposes, be deemed to be the duplicate of such entry.

79. Every person who—

Penalty for destruction of registers, &c.

(3) Where both the duplicate and the original of a marriage or divorce entry made by a registrar or a Quazi are lost, damaged, have become illegible, or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such duplicate and original. Such copies shall replace the original and duplicate entries and shall, for all purposes, be deemed to be the original and duplicate entries, respectively.

- (a) wilfully destroys or injures, or causes to be destroyed or injured, any record of proceedings, register, book, permit or other document kept or issued under this Act or under the Mohammedan Marriage Registration Ordinance, 1886,f or under the Muslim Marriage and Divorce Registration Ordinance, 1929,* or
- (b) falsely makes, fabricates or counterfeits in whole or in part any such register, book, permit or document or any document, purporting to be a certified copy of any such register, book, permit or document, or part thereof or extract therefrom, or
- (c) wilfully inserts any false entry in any such register, book, permit, document, or any certified copy thereof or extract therefrom,

shall be guilty of an offence, and shall be liable on conviction to imprisonment of either description for a term not exceeding three years.

Correction of clerical errors in registers.

77. Any clerical error which may from time to time be discovered in any register or

* Repealed by Act No. 13 of 1951.
+ Repealed by Ordinance No. 27 of 1929.

Penalty for incestuous marriage, &c.

80. (1) Every male Muslim who enters into any contract purporting or intended to be a contract of marriage, or has or attempts to have carnal intercourse, with a woman who to his knowledge is—

- (a) his daughter or other lineal descendant; or
- (b) his mother or other lineal ascendant; or
- (c) his sister by the full or the half-blood ; or
- (d) the daughter of his brother or sister by the full or the half-blood, or a descendant from either of them; or
- (e) the sister by the full or the half-blood of his mother, father, or other lineal ascendant; or
- (f) his wife's mother or grandmother; or
- (g) the daughter or granddaughter of his wife by another father; or
- (h) his son's, grandson's, father's, or grandfather's wife or widow or divorced wife; or
- (i) his wife's sister, his wife being then alive,

shall be guilty of an offence, and shall be liable on conviction to imprisonment of either description for any period not exceeding three years.

For the purposes of this subsection it is immaterial that the carnal intercourse was had, or that the attempt was made, with the consent of the woman.

(2) Every Muslim woman of or above the age of twelve years who enters into any contract purporting or intended to be a contract of marriage with any man, or permits any man to have carnal intercourse with her, knowing such man to be—

- (a) her son or other lineal descendant; or
- (b) her father or other lineal ascendant; or

- (c) her brother by the full or the half-blood ; or
- (d) the son of her brother or sister by the full or the half-blood, or a descendant from either of them; or
- (e) the brother by the full or the half-blood of her father, mother, or other lineal ascendant; or
- (f) her husband's father or grandfather; or
- (g) the son or grandson of her husband by another mother; or
- (h) her daughter's, granddaughter's, mother's or grandmother's husband or widower or divorced husband,

shall be guilty of an offence, and shall be liable on conviction to imprisonment of either description for any period not exceeding three years.

It shall be a defence for a woman charged with an offence under this subsection to prove that she was at the time of the offence under the coercion of the person having carnal intercourse with her.

(3) Nothing contained in this section or in any judgment or order given or made in any proceedings relating to an offence under this section shall be construed to make valid a marriage which would otherwise be invalid according to the Muslim law applicable to the parties thereto.

81. Every person—

- (a) upon whom a duty is imposed by this Act to register a marriage or to cause a marriage to be registered and who fails to register such marriage or to cause such marriage to be registered ; or
- (b) who aids or assists any Muslim to obtain or effect or register a divorce otherwise than in accordance with the provisions of this Act, or abets that offence in any other manner; or
- (c) who contravenes any of the provisions of section 56 (1) or section 56 (4),

Penalty for offences relating to marriage, divorce, &c.

shall be guilty of an offence and shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on a second or subsequent conviction to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment.:

Penalty for registering marriage in contravention of section 22, section 23 or section 24 (4).

82. Every registrar who knowingly registers, and every other person who aids or abets the registration of, any marriage in contravention of the provisions of section 22, section 23 or section 24 (4) 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 a term not exceeding six months or to both such fine and such imprisonment.

Penalty for unauthorized registration of marriage, divorce, &c.

83. Every person who, not being a Quazi, issues or professes to issue any permit or to register a divorce under this Act, or who not being a registrar, registers or professes to register any marriage under this Act, 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 a term not exceeding six months or to both such fine and such imprisonment.

Penalty for Quazi's failure to pay money to person entitled.

84. Subject to the provisions of section 38, every Quazi, who fails without reasonable cause forthwith to pay to the person entitled thereto any sum of money received by him under section 64 or section 65, 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 a term not exceeding six months or to both such fine and such imprisonment.

Penalty for making false statement in declaration.

85. Every person who wilfully or knowingly makes a false statement in any declaration signed by him under section 18 (1) 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 a term not exceeding six months or to both such fine and such imprisonment.

86. Every registrar who—

Penalty for breach of duty by registrars.

- (a) upon being required under this Act to register a marriage fails or refuses without reasonable cause to register that marriage ; or
- (b) except in the cases referred to in section 11, registers any marriage contracted or effected outside the limits of the area for which he is appointed; or
- (c) having been appointed under section 10, registers any marriage in breach of the restrictions or conditions contained in his certificate of appointment; or
- (d) registers any marriage at which he was not present; or
- (e) wilfully neglects to carry out at or, in connection with the registration of any marriage any duty imposed upon him by section 18, section 19, or section 58; or
- (f) wilfully contravenes any regulation made under this Act,

shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees.

87. Every Muslim woman who during her period of *iddat* contracts a marriage or participates as the bride in any ceremony purporting to be a marriage ceremony, and every person who aids or abets the contracting of any such marriage or the performance of any such ceremony, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

Penalty for registration of marriage contracted during *iddat*.

88. Every person who refuses or omits to deliver any book, register, or index, to the District Registrar as required by section 56 (3) and every person who is found without lawful excuse in possession of any book, register, or index, which is required by that section to be delivered to the District Registrar or to be taken possession of by him, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

Penalty for failure to deliver registers, &c. to District Registrar.

Penalty for intermeddling with suitors.

89. (1) Every person who, without proper excuse, accosts or attempts by words, signs or otherwise to meddle with any suitor or other person having business, actual or prospective, before the Board of Quazis or a Quazi, with respect to his suit or business, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

- (b) makes use of any violent, indecent or unbecoming gestures; or
- (c) wilfully interrupts or obstructs any proceedings thereof,

may be ordered by the board or such Quazi, as the case may be, to pay a penalty not exceeding twenty rupees.

(2) No prosecution shall be instituted in respect of an offence under subsection (1), except by, or at the instance or with the written consent of, the Attorney-General.

Where any such order is made by a Quazi, an appeal shall lie against that order to the Board of Quazis and the rules in the Fifth Schedule shall apply to -any such appeal:

[§9, 32 of 1969.]

Penalty for failure to discharge duty imposed by section 75.

90. Every police officer or grama seva niladhari who fails to discharge the duty imposed on him by section 75 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

Provided that no further appeal shall lie to the Court of Appeal against the order made by the board on an appeal under this subsection.

(2) Where default is made in the payment of any penalty imposed under subsection (!), the penalty may be recovered from the defaulter, on application made to the Magistrate having jurisdiction in the area within which the defaulter is resident, as though it were a fine imposed on him by the Magistrate, and when so recovered shall be credited to the Consolidated Fund.

Penalty for refusing to sign register or to provide necessary stamps.

91. Every person who—

- (a) being required by or under this Act to sign the statement of particulars entered in a register in respect of any marriage or divorce, without good cause refuses or . wilfully neglects to do so; or
- (b) being liable under this Act to supply the stamp or stamps necessary for the payment of any prescribed fee, refuses or neglects to do so,

(3) Every application under subsection (2) shall be signed by the secretary of the Board of Quazis if the penalty was imposed by the board and, in all other cases by the Quazi who imposed the penalty, and shall specify the amount of the penalty, the name and address of the person on whom it was imposed and such other particulars as may be prescribed.

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty rupees.

PART XI

SUPPLEMENTARY PROVISIONS

General penalty.

92. Every person who fails to comply with or acts in contravention of any provision of this Act or of any regulation, not referred to in the preceding sections in this Part, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees.

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

- (a) the procedure to be observed in cases before Quazis in regard to matters for which no express provision is made in this Act;
- (b) the processes to be issued by Quazis and the mode of enforcing the processes;

Misconduct while the Board of Quazis or a Quazi is sitting.

93. (1) Any person who, while the Board of Quazis or a Quazi is sitting, and in the presence on the board or such Quazi—

- (a) uses any violent, insulting, abusive or threatening language; or

- (c) the form and method of appeals to the Board of Quazis and all matters incidental or appertaining to the hearing of such appeals and the recording of the verdict or decision of the board;
 - (d) the summoning, challenging, and empanelling of Muslim assessors, and other matters relating to such assessors;
 - (e) the manner in which and the conditions subject to which processes may be served by the Fiscal, or other officers or persons;
 - (f) the stamp fees to be levied in respect of cases instituted before the Quazi, processes issued by the Quazi, appeals heard by the Board of Quazis, and applications for leave to appeal and appeals made to the Court of Appeal and, in general, all fees required by this Act to be prescribed, whether payable in stamps or otherwise;
 - (g) the stamp fees to be levied in respect of proceedings under this Act before Primary Courts where such fees are not provided for under any law for the time being regulating proceedings before Primary Courts;
 - (h) the stamp fee to be paid on a certified copy of or extract from any entry in a register relating to a marriage or divorce and on declarations under section 18(1);
 - (i) the inspection by the Registrar-General or a District Registrar of the offices of Quazis, and the registers and books kept by Quazis and registrars, and the inquiry into complaints against registrars;
 - (j) the correction of clerical errors in registers of marriages or divorces and the imposition of penalties on registrars in respect of such errors where they are due to negligence or wilful disregard of the provisions of this Act or any regulations made thereunder;
 - (k) the nature and form of the books, registers, certificates, permits, forms, and indexes to be kept, issued, or used by District Registrars, Quazis and registrars;
 - (l) the sums payable to the members and the secretary of the Board of Quazis, to Quazis, Muslim assessors and registrars, by way of fees and allowances (including allowances in reimbursement of the cost of travelling), and on any other account;
 - (m) the manner in which unclaimed moneys paid by Quazis to District Registrars under the second proviso to section 52 (1) or deposited by Quazis in kachcheries under section 38 shall be disposed of;
 - (n) the conditions subject to which the marriage of a male Muslim not domiciled in Sri Lanka with a Muslim woman domiciled in Sri Lanka may be registered, being conditions relating to the prepayment of *mahr* and deposit of money for maintenance of any child that may be born of the marriage;
 - (o) all other matters which are required or authorized by this Act to be prescribed or which may appear to the Minister to be necessary or expedient for the purpose of carrying out the provisions of this Act.
- (2) Any form in the First Schedule and any rule in the Second, Third, Fourth or Fifth Schedule may be rescinded, amended, modified or replaced, and any Schedule may be added to or replaced, by regulation made under this section.
- (3) Every regulation made by the Minister under this section shall be published in the Gazette. A regulation shall not come into operation unless it has been approved by Parliament nor until notification of such approval has been published in the Gazette.
- 95.** Nothing contained in this Act shall be construed to prevent a husband or wife from bringing an action in a civil court

[§7.1 of 1965.]

Saving of actions in civil courts.

against a third party for damages incurred by him or her in respect of any injury to his or her matrimonial rights.

Construction of references to District Registrar.

96. Every reference to a District Registrar in this Act or in any regulation made thereunder shall, for the purposes of the application of the Act or of any such regulation to a special registrar appointed under section 10 or to a special Quazi appointed under section 14, be read and construed as though the words "Registrar-General" were substituted for the words "District Registrar" in the context in which such reference is made.

Interpretation.

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

"appointed date" means the 1st day of August, 1954 ;

"district" means administrative district;

"District Registrar", in relation to any district, means the person appointed to be or to act as the District Registrar of Marriages of that district for the purposes of the Marriage Registration Ordinance, and includes a person appointed to be or to act as an Additional District Registrar of that district ;

[§7,41 of 1975.]

[§8, 1of 1965.]

"Judicial Service Commission" means the Judicial Service Commission referred to in Article 112 of the Constitution ;

"kaikuli" means any sum of money paid, or other movable property given, or any sum of money or any movable property promised to be paid or given, to a bridegroom for the use of the bride, before or at the time of the marriage by a relative of the bride or by any other person ;

"prescribed" means prescribed by regulations made under this Act;

"Quazi" means a Quazi appointed under section 12 or section 13 or section 14;

"registrar" means a male Muslim appointed under section 8 or section 9 or section 10 to register marriages under this Act ;

"Registrar-General" means the person appointed to be or to act as Registrar-General of Marriages under section 2 of the Marriage Registration Ordinance, and includes a Deputy Registrar-General and an Assistant Registrar-General;

[§§2&3 Law 23 of 1978.]

"regulation" means a regulation made under this Act;

"secretary" or "secretary to the Board of Quazis" means the secretary appointed under section 15 (6).

PART XII

SAVINGS AND TRANSITIONAL PROVISIONS

98. (1) For the avoidance of doubt, it is hereby declared that the repeal of sections 64 to 101 and of the first paragraph of section 102 of the Mohammedan Code of 1806, by the Muslim Marriage and Divorce Registration Ordinance, 1929,* or the repeal of that Ordinance by Act No. 13 of 1951, does not affect the Muslim law of marriage and divorce, and the rights of Muslims thereunder.

Saving of Muslim-law of marriage and divorce.

(2) It is hereby further declared that in all matters relating to any Muslim marriage or divorce, the status and the mutual rights and obligations of the parties shall be determined according to the Muslim law governing the sect to which the parties belong.

99. On and after the appointed date—

Savings.

(a) every rule made under section 18 and every regulation made under section 22 of the Muslim Marriage and Divorce Registration Ordinance, 1929,* and in force on the day immediately preceding that date shall, in so far as such rule or regulation is not inconsistent with the provisions of this Act, continue in force and be deemed to be a rule or regulation made under section 62 or section 94, as the case may be, of this Act;

(b) every officiating priest, temporary officiating priest or special officiating priest licensed under the Muslim Marriage and Divorce Registration Ordinance, 1929,*

* Repealed by Act No. 13 of 1951.

shall be deemed to be a registrar, temporary registrar or special registrar appointed under this Act; and every licence issued under that Ordinance shall be deemed to be a certificate of appointment issued under this Act;

- (c) every Kathi, temporary Kathi or special Kathi, appointed under the

Muslim Marriage and Divorce Registration Ordinance, 1929,* shall be deemed to be a Quazi, temporary Quazi or special Quazi appointed under this Act; and the Board of Kathis appointed under that Ordinance shall be deemed to be the Board of Quazis appointed under this Act.†

FIRST SCHEDULE

Form No. I

CERTIFICATE OF APPOINTMENT OF A REGISTRAR OF MUSLIM MARRIAGES AUTHORIZED TO REGISTER MARRIAGES

Counterfoil

No.

In pursuance of the powers vested in me by section 8 of the Muslim Marriage and Divorce Act, I,, do hereby appoint of to be a Registrar of Marriages for the following area:

(Sgd.), Registrar-General.

Date:

(Stamp.)

Original

No.

In pursuance of the powers vested in me by section 8 of the Muslim Marriage and Divorce Act, I,, do hereby appoint of to be a Registrar of Marriages for the following area:

(Sgd.), Registrar-General.

Date:

(Stamp.)

[Section 8.]

[Section 18 (1).]

Form No. II

THE MUSLIM MARRIAGE AND DIVORCE ACT

FORM OF DECLARATION BY BRIDEGROOM UNDER SECTION 18 (1)

I, the undersigned, do hereby give notice that a marriage is about to be/has been solemnized between me and, and I further hereby solemnly declare that to the best of my knowledge and belief the several particulars entered below are true and correct and that there is no lawful hindrance to the said marriage:

- 1. Bridegroom's name in full:
2. Bridegroom's age:
3. Bridegroom's residence:
4. Full name of bridegroom's guardian (if any):
5. Bride's name in full:
6. Bride's age:
7. Bride's residence:

* Repealed by Act No. 13 of 1951.
† Paragraphs (d), (e), (f) and (g) are omitted.

- *8. Full name of bride's *wali*:.....
- 9. Relationship of *wali* to bride (whether father, paternal grandfather, brother, &c.):.....
- 10. Whether bridegroom was previously married or not, and, if so, to whom : ,.....
- 11. Whether previous wife or wives divorced or dead :
- 12. If divorced, date and number of divorce registration and name, area and district of the officiating priest or Quazi:

(Sgd.).....
Signature of bridegroom.

Signed before me, this day of..... 19.....

(Sgd.).....
Registrar of Muslim Marriages for the
area of the District.

* This may be omitted where the Quazi has expressly authorized the marriage under section 47 (2), or where no *wali* is necessary according to the Muslim law governing the sect to which the bride belongs.

Form No. III

(Section 18
(1).]

THE MUSLIM MARRIAGE AND DIVORCE ACT

FORM OF DECLARATION BY "WALI " OF BRIDE UNDER SECTION 18(1)

I, the undersigned do hereby give notice that a marriage is about to be/has been solemnized between and whose *wali* I am for the purposes of such marriage, and I further hereby solemnly declare that to the best of my knowledge and belief the several particulars entered below are true and correct and that there is no lawful hindrance to the said marriage ;—

- 1. Bridegroom's name in full :.....
- 2. Bridegroom's age :.....
- 3. Bridegroom's residence:.....
- 4. Full name of bridegroom's guardian (if any) :.....
- 5. Bride's name in full :.....
- 6. Bride's age :.....
- 7. Bride's residence;.....
- 8. Whether the bride was previously married or not:.....
- 9. If previously married, to whom :.....
- 10. Whether bride's previous husband is dead or divorced :.....
- 11. If divorced, date and number of divorce registration and name, area and district of the officiating priest or Quazi:.....

(Sgd.).....
Signature of *wali*.

Residence of *wali*..

I,.....;....., the undersigned, do hereby confirm the foregoing declaration made by my *wali*, who is neither my father nor my paternal grandfather.

(Sgd.).....
Signature of bride.

Signed before me, this..... day of..... 19.....

(Sgd.).....
Registrar of Muslim Marriages for the
area of the District.

No. :

THE MUSLIM MARRIAGE AND DIVORCE ACT
MUSLIM MARRIAGE REGISTER

District :

Registrar's area :

Full name of registrar registering the marriage :

	Bridegroom	Bride
1. Name in full		
2. Age		
3. Civil condition		
4. If divorced, evidence of divorce, if any		
5. Residence		
6. Name of father or other guardian in full		
7. Nature of guardianship		

8. Amount of *mahr* and whether paid or not :*9. Amount of *kaikuli* :

10. Place of marriage :

11. Date and hour of marriage :

12. Date of registration :

13. Full name and residence of first witness :

14. Full name and residence of second witness :

15. Full name of person conducting *Nikah* ceremony :

16. Signature of—

(1) Bridegroom :

†(2) Bride's *wali* :

(3) First witness :

(4) Second witness :

(5) Person conducting *Nikah* ceremony :

(6) Registrar :

* It is optional and not obligatory to enter details of item.

† Signature of the bride's *wali* may be omitted where the Quazi has expressly authorized the marriage under section 47 (2), or where no *wali* is necessary according to the Muslim law governing the sect to which the bride belongs.

No. :

THE MUSLIM MARRIAGE AND DIVORCE ACT
MUSLIM MARRIAGE REGISTER

District :

Registrar's area :

Full name of registrar registering the marriage :

	Bridegroom	Bride
1. Name in full		
2. Age		
3. Civil condition		
4. If divorced, evidence of divorce, if any		
5. Residence		
6. Name of father or other guardian in full		
7. Nature of guardianship		

8. Amount of *mahr* and whether paid or not :*9. Amount of *kaikuli* :

10. Place of marriage :

11. Date and hour of marriage :

12. Date of registration :

13. Full name and residence of first witness :

14. Full name and residence of second witness :

15. Full name of person conducting *Nikah* ceremony :

16. Signature of—

(1) Bridegroom :

†(2) Bride's *wali* :

(3) First witness :

(4) Second witness :

(5) Person conducting *Nikah* ceremony :

(6) Registrar :

* It is optional and not obligatory to enter details of item.

† Signature of the bride's *wali* may be omitted where the Quazi has expressly authorized the marriage under section 47 (2), or where no *wali* is necessary according to the Muslim law governing the sect to which the bride belongs.

Stamp.

No. :

THE MUSLIM MARRIAGE AND DIVORCE ACT
MUSLIM DIVORCE REGISTER

District :

Quazi's area :

Full name of Quazi registering the divorce :

1. Husband's name in full :
2. Husband's residence at time of divorce :
3. Wife's name in full :
4. Wife's residence at time of divorce :
5. Full name, area and district of officiating priest or registrar who registered the marriage :
6. Number and date of the entry of marriage :
7. Place of divorce :
8. Nature of divorce (whether by husband or by wife) :
9. If divorce by wife, whether granted by Quazi or on order of the Board of Quazis or of the Court of Appeal :
10. Date and hour of divorce :
11. Date of registration of divorce :
12. Signature of—
 - (1) Husband (if present) :
 - (2) Wife (if present) :
 - (3) Quazi registering the divorce :

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No. :

THE MUSLIM MARRIAGE AND DIVORCE ACT
MUSLIM DIVORCE REGISTER

District :

Quazi's area :

Full name of Quazi registering the divorce :

1. Husband's name in full :
2. Husband's residence at time of divorce :
3. Wife's name in full :
4. Wife's residence at time of divorce :
5. Full name, area and district of officiating priest or registrar who registered the marriage :
6. Number and date of the entry of marriage :
7. Place of divorce :
8. Nature of divorce (whether by husband or by wife) :
9. If divorce by wife, whether granted by Quazi or on order of the Board of Quazis or of the Court of Appeal :
10. Date and hour of divorce :
11. Date of registration of divorce :
12. Signature of—
 - (1) Husband (if present) :
 - (2) Wife (if present) :
 - (3) Quazi registering the divorce :

Stamp.

RULES TO BE FOLLOWED IN THE CASE OF A DIVORCE BY A HUSBAND

1. Where a husband intends to pronounce the *talak* on his wife, he shall give notice of his intention to the Quazi of the area in which she is resident, and it shall then be the duty of the Quazi to attempt to effect a reconciliation between such husband and wife with the help of the relatives of the parties and of the elders and other influential Muslims of the area.

2. If within thirty days from the date on which the husband gives notice of his intention under rule 1, no reconciliation between him and his wife is effected, the husband, if he desires to proceed with the divorce, shall pronounce the *talak* in the presence of the Quazi and two witnesses, and the Quazi shall forthwith record such pronouncement and shall cause notice thereof to be served upon the wife, if she is not present. The prescribed fee shall be recovered by the Quazi from the husband in stamps which shall be affixed to the record of the proceedings and duly cancelled by the Quazi.

3. The Quazi shall not record the alleged reasons for which, or the alleged grounds upon which, the husband seeks to pronounce the *talak*.

4. (1) In every case where no reconciliation between husband and wife is effected within the period of thirty days referred to in rule 2, it shall be the duty of the Quazi—

(a) at such stage in the proceedings as he may deem convenient, to recover in the prescribed manner from the husband any *mahr* payable to the wife, whether or not a claim for *mahr* by the wife has theretofore been made;

(b) forthwith upon such recovery to deposit the money so recovered in the kachcheri in the name of the wife and to give notice to the wife that such money has been deposited in her name in the kachcheri.

(2) No money deposited in a kachcheri in pursuance of the preceding provisions of this rule shall be withdrawn unless the Quazi has authorized such withdrawal; and the Quazi shall not authorize any withdrawal except in accordance with the regulations prescribing the circumstances in which the Quazi may authorize moneys deposited under paragraph (1) to be withdrawn.

5. If the Quazi is satisfied by statement on oath or affirmation that the wife is not in Sri Lanka and that in the circumstances of the case it is not possible to serve upon her the notice referred to in rule 2, he may order the notice to be served on the wife's nearest relative, or, if no relative of the wife is known to be in Sri Lanka, he may dispense with the necessity for serving such notice on the wife.

6. If the presence of the wife cannot be secured or if a reconciliation cannot be effected, the husband shall, after the expiry of a period of thirty days reckoned from the date on which the *talak* was pronounced under rule 2, appear before the Quazi on a date fixed by the Quazi who shall again endeavour to effect a reconciliation between the parties. If no reconciliation between the parties is effected, notice of that fact shall be served by the Quazi on the wife if she is not present.

The provisions of rule 5 shall apply in the case of a notice given under this rule in like manner as they apply in the case of a notice referred to in rule 2.

7. Where no reconciliation between husband and wife is effected before the expiry of a period of thirty days from the date fixed by the Quazi under rule 6, the husband shall appear before the Quazi on such date after the expiry of the said period as may be fixed by the Quazi; and the Quazi shall forthwith record such appearance and the fact of his failure to reconcile the parties and shall thereupon register the divorce.

8. Where a husband fails to appear before the Quazi on the date fixed under rule 6 or rule 7, the Quazi may, at any time after the expiry of a period of three months from the date on which the *talak* was pronounced under rule 2, first examine the wife on oath or affirmation with regard to the failure of the husband, to appear and the causes of the failure to effect a reconciliation between the parties, and shall thereupon register the divorce.

9. Save as otherwise provided in rule 3, all proceedings under the rules in this Schedule shall be recorded by the Quazi.

THIRD SCHEDULE

RULES TO BE FOLLOWED IN THE CASE OF A DIVORCE BY A WIFE

[Section 28.]

1. Subject to the provisions of section 67 of the Act, the wife shall make an application for divorce to the Quazi of the area in which she is resident or, where a special Quazi has, under section 14 of the Act, been appointed for (hat area or any area of which that area forms part, to that special Quazi.

2. Upon receiving the application, the Quazi shall forthwith cause a notice, setting out particulars of the application and the date fixed by him for the hearing thereof, to be served upon the husband.

3. Where it is made to appear to the Quazi by statement on oath or affirmation that the husband is not in Sri Lanka and that in the circumstances of the case it is not possible to serve on the husband the notice referred to in rule 2, the Quazi may order the notice to be served on the husband's nearest relative or, if no relative of the husband is known to be in Sri Lanka, the Quazi may dispense with the necessity for serving such notice on the husband.

4. Where it is made to appear to the Quazi by statement on oath or affirmation that the husband is in Sri Lanka and that he has no fixed abode and that in the circumstances of the case it is not possible to serve on the husband the notice referred to in rule 2, the Quazi may dispense with personal service on the husband and may order that a copy of the notice be posted up in a conspicuous place at each of the Jumma mosques of the area for which the Quazi has been appointed and at the houses of the nearest relatives of the husband whose addresses are known.

5. The Quazi shall record all the steps taken to serve the notice on the husband in accordance with these rules.

6. If on the date appointed for the hearing of the application the husband does not appear the service or posting up of the notice shall, unless the Quazi has dispensed with the notice under rule 3, be proved by statement on oath or affirmation-

7. The Quazi shall then proceed, in manner prescribed by regulation made under the Act, to empanel three Muslim assessors (hereinafter in this Schedule referred to as " Muslim assessors ") to assist him in the hearing of the application:

Provided that in the following cases, and in those cases only, it shall not be necessary for the Quazi to empanel Muslim assessors, namely—

(a) where the Quazi dealing with an application is a special Quazi appointed under section 14 of the Act; or

(b) where the area in which an application is to be heard* is an area in respect of which, owing to the sparseness of the Muslim population or for any other reason, the Minister has by notification in the Gazette given directions that applications for divorce may be heard without the assistance of Muslim assessors.

8. In an area brought under the operation of the Village Councils Ordinance, the Muslim assessors shall be male Muslims who are resident in that area and who possess the qualifications required under that Ordinance for membership of a Village Council. Registrars of Births and Deaths are hereby exempted from service as Muslim assessors.

9. In an area not brought under the operation of the Village Councils Ordinance the Muslim assessors shall be male Muslims who are resident in that area and whose names appear in the lists of jurors for that area.

10. It shall be the duty of the Quazi and of the Muslim assessors (if any) before hearing the application to endeavour by all lawful means to bring the parties to an amicable settlement and, with the consent of the parties, to abate or remove the real cause of trouble between them and to prevent it from recurring thereafter. But if the parties will not agree to such settlement, the Quazi and the Muslim assessors (if any) shall proceed to hear evidence and to determine the application.

11. The Quazi shall maintain a record of the proceedings in the case and shall enter therein the statements made on oath or affirmation by the wife and her witnesses and by the husband (if he is present) and his witnesses- Of the wife's witnesses the number examined shall not be less than two in, any case. The record of every such statement shall be read over by the Quazi to the person who has made it and, after any necessary corrections have been made therein, shall be signed by such person. Where such person refuses to sign such statement, the fact of such refusal shall be recorded by the Quazi.

12. The Muslim assessors shall first express their opinions on the points arising for adjudication, and when they have done so the Quazi shall express his opinion. In the event of any difference of opinion between the Quazi and the Muslim assessors or any of them, or in the event of a refusal by more than one of the Muslim assessors to

express their opinion, the opinion of the Quazi shall prevail; and in accordance therewith he shall make such order on the application as may properly be made under the Muslim law governing the seel to which the parties belong. Every such difference of opinion with any assessors or refusal of any assessor to express an opinion shall be recorded by the Quazi in the record of the proceedings in the case.

13. The Quazi shall, immediately after making order on the application, reduce such order to writing in the record of the proceedings in the case and the record shall be signed by the Quazi, by the Muslim assessors, by the wife, and by the husband, if he is present.

14. The Quazi shall, on payment of the prescribed fee, furnish either party to the application with a certified copy of the record of the proceedings in the case.

15. After the appealable time has elapsed, if there has been no appeal from the order of the Quazi allowing a divorce, or if there has been an appeal to the Board of Quazis, after the Board of Quazis has allowed a divorce, or in case of a further appeal to the Court of Appeal, if the order of the Court of Appeal allows such a divorce, it shall be the duty of the Quazi to register the divorce.

FOURTH SCHEDULE

RULES FOR INQUIRIES UNDER SECTION 47

[Section 47.]

1. Every claim, complaint or application referred to in section 47 shall be made to the Quazi of the area in which the claimant, complainant or applicant resides, or, where a special Quazi has been appointed, to such special Quazi, and shall specify the party or each of the parties (hereinafter referred to as the "respondent") from or against whom relief is sought.

2. Upon receipt of any claim, application or complaint, the *Quazi* shall immediately fix a date for the inquiry thereinto and shall cause a notice of the claim, application or complaint and of the date so fixed to be served upon the respondent;

Provided that if it is made to appear to the Quazi by statement on oath or affirmation that any such respondent is not in Sri Lanka or has no fixed place of abode, the provisions of rule 3 or of rule 4 (as the case may require) in the Third Schedule shall, so far as applicable, apply.

3. Where the respondent appears on the date fixed for the inquiry, the Quazi shall proceed with the inquiry, and, after hearing both parties, shall make such order on the claim, complaint or application as to him may seem just.

4. Where the respondent does not appear on the day fixed for the inquiry, the Quazi, if he has dispensed with service of notice on the respondent or if the service of notice on the respondent or the posting up of the notice is proved by statement on oath or affirmation, shall proceed with the inquiry *ex parte* and shall, if he is satisfied that the claimant or complainant or applicant is entitled to the relief prayed for, make in his favour an order *nisi* conditioned to take effect in the event of the respondent not showing cause against it on a day specified for that purpose in the order and shall direct a copy of such order certified under his hand to be served on the respondent:

Provided that if it is made to appear to the Quazi by statement on oath or affirmation that the respondent is not in Sri Lanka or has no fixed place of abode, the provisions of rule 3 or of rule 4 (as the case may require) in the Third Schedule shall, so far as applicable, apply.

5. Where the respondent fails to appear in any case in which the Quazi has dispensed with service of the copy of the order *nisi* on the respondent or in which the service of such copy on the respondent or the posting up of such copy is proved by statement on oath or affirmation, or where the respondent appears but fails to show cause against the order, the Quazi shall make the order absolute.

6. Where the respondent appears and shows cause to the satisfaction of the Quazi why the order *nisi* should not be made absolute, the Quazi shall set aside the order *nisi* and shall proceed with the inquiry as though no default had been made by the respondent in appearing in compliance with the notice issued under rule 2.

7. The provisions of rule 11 in the Third Schedule as to the record of proceedings shall apply so far as may be in the case of inquiries held under the rules in this Schedule.

8. Every order made by a Quazi in any inquiry held under the rules in this Schedule shall be entered in the record of the proceedings in the case and shall be signed by the Quazi and by the claimant, applicant or complainant and by the respondent, if he is present.

9. The Quazi shall on payment of the prescribed fee furnish either party to the proceedings with a certified copy of the record of the proceedings in the case.

10. No appeal shall lie against any order absolute made by a Quazi in pursuance of the rules in this Schedule, but if any person against whom an order absolute has been made appears within a reasonable time after such order and satisfies the Quazi that he was prevented from appearing to show cause against the making of the order absolute by reason of illness, accident, misfortune or other unavoidable cause or by not having received notice of the proceedings, the Quazi may upon such terms and conditions as he may think it just and right to impose set aside the order absolute and proceed with the inquiry as though there had been no default in appearance.

FIFTH SCHEDULE

RULES FOR APPEALS

[Sections 60
and 93.]

1. Where by any provision of this Act a right of appeal against any order made by a Quazi is conferred on any party, such appeal shall be preferred in writing to the Board of Quazis—

(a) in the case of an order made under subsection (2) or subsection (3) of section 47, within ten days from the date on which the order was made;

(b) in the case of any other order, within thirty days from the date on which the order was made :

Provided that the preceding provisions of this rule shall not affect the power vested in the board by the Act to entertain an appeal which is out of time.

2. The Board of Quazis may hear any appeal either in public or *in camera* and may, if it considers it necessary so to do for the proper disposal of the case, hear such further evidence as may be tendered by either party to the appeal.

3. (1) Every order made by the Board of Quazis shall be reduced into writing and shall be signed by the members of the board present at the hearing of the appeal.

(2) Notice of every order made by the Board of Quazis shall be given to the appellant and the respondent.

4. Any party aggrieved by any order made by the Board of Quazis may within thirty days from the date on which notice of the order was given as aforesaid apply by petition to the Court of Appeal for leave to appeal against such order and shall give to the other party to the appeal notice of such application.

5. The Court of Appeal may in refusing to grant leave to appeal against any order of the Board of Quazis make such order as to costs as it may deem just.

6. The Court of Appeal may in granting leave to appeal against any order of the Board of Quazis prescribe such conditions as it may consider expedient relating to the payment of costs that may become payable in the event of the appeal to that court being unsuccessful.

7. Where any appeal is heard by the Court of Appeal, it shall be lawful for the court to order that a new inquiry should be held by the Quazi or that further evidence should be taken by him or to make order confirming, altering, amending, modifying or reversing the order made by the Quazi or by the Board of Quazis.

8. Where any order has been made by any Quazi in any case and an appeal is preferred in that case to the Board of Quazis or to the Court of Appeal—

(a) notice of such appeal shall be given by the appellant to the Quazi; and

(b) it shall be the duty of the Quazi to carry into effect the order made in appeal in that case by the Board of Quazis or by the Court of Appeal.

CHAPTER 272

MAHAWELI AUTHORITY OF SRI LANKA

Act No. 23 of 1979. AN ACT TO ESTABLISH THE MAHAWELI AUTHORITY OF SRI LANKA WHICH SHALL BE THE AUTHORITY RESPONSIBLE FOR THE IMPLEMENTATION OF THE MAHAWELI GANGA DEVELOPMENT SCHEME, TO PROVIDE FOR THE ESTABLISHMENT OF CORPORATIONS TO ASSIST IN SUCH IMPLEMENTATION, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th April, 1979.]

Short title. 1. This Act may be cited as the Mahaweli Authority of Sri Lanka Act. approved but without prejudice to anything previously done thereunder.

ESTABLISHMENT AND CONSTITUTION OF AUTHORITY

Establishment of the Mahaweli Authority. 2. (1) With effect from such date* as may be determined by the Minister by Notification published in the Gazette, there shall be established an Authority called the Mahaweli Authority of Sri Lanka (hereinafter referred to as the " Authority ").

(3) Nothing in the preceding subsections shall be deemed to preclude the Authority from maintaining any office or stores outside any Special Area or executing outside any Special Area any such work as may be necessary for the discharge of its functions under this Act.

(2) The Authority shall, by the name assigned to it by subsection (1), be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name, and may perform such acts as bodies corporate may by law perform.

4. The Authority shall consist of five Directors of whom—

(a) three Directors shall be appointed by the Minister, with the approval of the President; and

(b) two ex officio Directors, namely—

Special Area of Authority. 3. (1) The Minister may, with the approval of the President from time to time, by Order published in the Gazette declare any area which in the opinion of the Minister can be developed with the water resources of the Mahaweli Ganga or of any major river to be a special area (hereinafter referred to as " Special Area ") in or in relation to which the Authority may, subject to the other provisions of this Act, exercise, perform and discharge all or any of its powers, duties and functions.

(i) the Secretary to the Ministry charged with the subject of Finance; and

(ii) the Secretary to the Ministry charged with the administration of this Act.

(2) Every Order shall as soon as it is convenient after its publication in the Gazette be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded from the date on which it is not so

5. (1) The Minister may, with the approval of the President, appoint one of the Directors to be the Director-General of the Authority. Director-General of the Authority.

(2) The Director-General shall be the chief executive officer of the Authority.

(3) The Director-General shall preside at all meetings of the Authority and in his absence any Director elected by the Directors shall preside at such meeting.

* 19th April, 1979—See Gazette No. 35 of 1979.05.04.

(4) Where the Director-General is temporarily unable to perform the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint any Director to act in place of such Director-General.

Term of office of Directors.

6. (1) Every Director shall hold office for a period of five years from the date of his appointment, unless he earlier vacates office by death, resignation or removal.

(2) Any Director may resign his office by written communication addressed to the Minister.

(3) The Minister may, if he thinks it expedient to do so, by Order published in the Gazette, remove, with the approval of the President, any appointed Director of the Authority from office without reason stated.

(4) A Director in respect of whom an Order under subsection (3) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette or on such other date as may be specified in such Order.

(5) A Director who has been removed from office shall not be eligible for re-appointment as a Director of the Authority or to serve the Authority in any other capacity.

(6) Upon the vacation of office by any Director the Minister may appoint any person to fill such vacancy and such person shall hold office for the unexpired period of the term of office of the Director whom he succeeds.

(7) Where any Director is temporarily unable to perform the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint any person to act in place of such Director.

Disqualification for being appointed as Directors.

7. A person shall be disqualified from being appointed or from continuing as a Director if he—

(a) is a Member of Parliament or a member of a local authority; or

(b) is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind ; or

(c) is a person who, having been declared an insolvent or a bankrupt under any law in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or

(d) is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or in any other country.

8. No act or proceeding of the Authority shall be invalid by reason only of any vacancy among its Directors or any defect in the appointment of any of its Directors.

Vacancy among directors not to invalidate acts and proceedings.

9. The Directors of the Authority shall be remunerated at such rates and in such manner and shall be subject to such terms and conditions of service as may from time to time be determined by the Minister.

Remuneration and terms and conditions of service of Directors.

10. (1) Subject to the other provisions of this Act, the Authority may regulate its procedure in regard to the meetings of the Authority and the transaction of business at such meetings.

Meetings and quorum at meetings of the Authority.

(2) The quorum for a meeting of the Authority shall, unless the Authority otherwise determines, be three members.

11. (1) The seal of the Authority shall be in the custody of such person as the Authority may decide from time to time.

Seal of the Authority.

(2) The seal of the Authority may be altered in such manner as may be determined by the Authority.

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of the Director-General of the Authority, and one other Director, both of whom shall sign the instrument or document in token of their presence:

Provided that where the Director-General is unable to be present at the time when the seal of the Authority is affixed to any instrument or document, any other Director

authorized in writing by the Director-General in that behalf, shall be competent to sign such instrument or document in accordance with the preceding provisions of this subsection.

(4) The Authority shall maintain a register of the instruments or documents to which the seal of the Authority is affixed.

POWERS AND FUNCTIONS

Functions of the Authority.

12. The functions of the Authority in, or in relation to, any Special Area shall be—

(a) to plan and implement the Mahaweli Ganga Development Scheme including the construction and operation of reservoirs, irrigation distribution system and installations for the generation and supply of electrical energy:

Provided, however, that the function relating to the distribution of electrical energy may be discharged by any authority competent to do so under any other written law;

(b) to foster and secure the full and integrated development of any Special Area;

(c) to optimise agricultural productivity and employment potential and to generate and secure economic and agricultural development within any Special Area;

(d) to conserve and maintain the physical environment within any Special Area;

(e) to further the general welfare and cultural progress of the community within any Special Area and to administer the affairs of such area ;

(f) to promote and secure the participation of private capital, both internal and external, in the economic and agricultural development of any Special Area; and

(g) to promote and secure the co-operation of Government departments. State institutions, local

authorities, public corporations and other persons, whether private or public, in the planning and implementation of the Mahaweli Ganga Development Scheme and in the development of any Special Area.

13. Notwithstanding the provisions of any other law and without prejudice to the generality of the powers conferred on the Authority by this Act, the Authority shall in or in relation to any Special Area have the power—

Powers of the Authority.

(1) to construct, maintain and operate such dams, channels, drainage systems, and other irrigation works and structures for the purpose of achieving its objects;

(2) to construct such hydro-power installations as may be necessary for the purpose of the generation and supply of electrical energy:

Provided, however, that the function relating to the distribution of electrical energy may be discharged by any authority competent to do so under any other written law;

(3) to take such measures as may be necessary for water-shed management and control of soil erosion;

(4) to promote, assist in, and secure the settlement of persons on lands, farms and properties in any special area and to make, advance to and pay for or contribute to the expenses of, and otherwise assist persons settling, farming or otherwise developing any such lands, farms and properties or are desirous of so doing and to take all such steps as are necessary or are connected therewith;

(5) to manage farms and to engage in farming, agricultural and horticultural activities of every kind;

(6) to manage, improve, farm, cultivate, maintain, lease, purchase, sell or otherwise deal with all or any part of lands;

- (7) to provide advisory and farmer training services to improve cultivation techniques, water management, soil management and the preservation of the physical environment;
- (8) to assist in the implementation of agricultural plans formulated by family communities;
- (9) to manage and operate a scheme of supervised credit to farmers;
- (10) to provide agricultural inputs such as seed materials, fertilizers, agro-chemicals, power, agricultural machinery and equipment to farmers and persons;
- (11) to carry out research relating to the development of agriculture and agro-based or related industries ;
- (12) to promote, undertake and participate in agro-based or related industrial or commercial enterprises;
- (13) to recover cesses on farm and other produce and to levy a charge or fee for the supply of water and for any service rendered by the Authority;
- (14) to provide marketing services for the purchase, storage, processing and sale of farm and other produce;
- (15) to manufacture, buy, sell and generally deal in any plant, machinery, tools, goods, or things of any description;
- (16) to purchase or otherwise acquire, erect, maintain, reconstruct and adapt any offices, workshops, plant, machinery and other things ;
- (17) to import, export, buy, sell and otherwise deal in goods, produce, articles or merchandise;
- (18) to acquire by subscription, purchase or otherwise and to accept and take, hold and sell, shares or stock in any company, society or undertaking, such as may be likely to promote or advance the objects of the Authority;
- (19) to accept stocks or shares in or debentures, mortgage debentures or other securities of any company in payment or part payment for any services rendered or for any sale made to or debt owing from any such company;
- (20) to promote, invest and participate in subsidiary, companies which have a principal place of business ;
- (21) with the concurrence of the Minister in charge of the subject of Finance, to borrow, raise money or secure obligations from sources, either in Sri Lanka or abroad, by the issue of debentures, debenture stock, bonds, mortgages, or any other securities or without any security, and upon such terms as to priority or otherwise as the Authority may determine;
- (22) to receive money on deposit with or without allowance of interest thereon;
- (23) to advance or lend money upon such security as may be adequate or without taking any security therefor;
- (24) to invest the monies of the Authority in such manner as may from time to time be determined by the Authority;
- (25) to draw, accept and make, and to endorse, discount and negotiate bills of exchange and promissory notes and other negotiable instruments;
- (26) to issue or guarantee the issue of or the payment of interest on shares, debentures, debenture stock or other securities or obligations of any company or association and to pay or provide for brokerage, commission and underwriting in respect of any such issue ;

- (27) to act as agents for any Government or other authority and for private or public bodies and other persons ;
- (28) to undertake promotional and advertising activities connected with the objects of the Authority;
- (29) to promote, organize and manage all kinds of sports recreations and entertainments and to provide facilities for recreation and other leisure-time occupation in any Special Area;
- (30) to provide for the relief of poverty suffering and distress among persons within any Special Area;
- (31) to subscribe or contribute to any charitable, benevolent or useful object of a public character within any Special Area;
- (32) to appoint such employees and agents, as are necessary for carrying out the functions of the Authority ;
- (33) to provide for the welfare of persons in the employment of the Authority or formerly in the employment of the Authority and the wives, widows and families of such persons, by grants of money, pensions or other payments and to form, subscribe to or otherwise aid benevolent, religious, scientific or national institutions in any Special Area;
- (34) to take all such steps as are necessary for the general welfare of the community in any Special Area;
- (35) to exercise any of the powers of the Authority whether as agents, trustees or otherwise and whether alone or in conjunction with others; and
- (36) to do all such other acts and things as are incidental to or consequential upon or connected with the exercise, performance and discharge of the powers, duties and functions of the Authority.
- 14.** (1) The Authority may establish its own departments or agencies for the purpose of any work involved in the discharge of its functions. Departments and agencies of the Authority.
- (2) The Authority may make arrangements or contracts with Government departments, local authorities, public corporations and other bodies whether private or public for the purpose of carrying out its functions.
- 15.** The Authority may in writing under its seal empower any person, either generally or in respect of any specific matter, to act for and on behalf of the Authority in any place outside Sri Lanka. Empowering of persons to act for Authority outside Sri Lanka.
- 16.** (1) The Authority may, subject to such conditions as may be specified in writing, delegate to any Director or to any head of any department of the Authority, any power, duty or function conferred or imposed on or assigned to the Authority. Delegation of powers, &c., of Authority.
- (2) Notwithstanding any such delegation, the Authority may exercise, perform or discharge any such power, duty or function.
- 17.** (1) There may be appointed to the staff of the Authority such employees as the Authority may deem necessary. Staff of the Authority.
- (2) The Authority may appoint, dismiss and exercise disciplinary control over the staff of the Authority and fix the salary, wages or other remuneration of such staff and determine the terms and conditions of service of such staff.
- 18.** (1) At the request of the Authority any public officer may with the consent of that officer and the consent of the person who for the time being has the power to appoint such officer be temporarily appointed to the staff of the Authority for such period as may be determined by such Authority with like consent or be permanently appointed to such staff. Appointment of public officers to the Authority.
- (2) (a) Where a public officer is appointed temporarily to the staff of the Authority the provisions of subsections (3) and (5) of section 26 of the State Industrial Corporations Act other than paragraph (a) of subsection (3) of section 26 shall, *mutatis mutandis*, apply to and in relation to such officer.

(b) Where an officer is permanently appointed to the staff of the Authority the provisions of subsections (4) and (5) of section 26 of that Act shall, *mutatis mutandis*, apply to and in relation to such officer.

Authority to ensure that financial assistance given for any purpose is utilized for same.

19. The Authority shall take all such measures as may be necessary to ensure that any financial assistance rendered by the Authority to any agricultural, industrial or commercial enterprise is utilized for the purpose for which it is given.

Authority not to transact business with enterprise in which a director has interest unless approved by the Minister.

20. The Authority shall not make an investment in or otherwise transact business with an enterprise to which a director of the Authority is a partner, director or shareholder or is in any other way directly or indirectly interested, unless the transaction is approved by the Minister.

Special powers of Authority in respect of certain Departments and Corporations.

21. (1) Notwithstanding the provisions of any other law—

- (a) where the Authority considers it necessary for the purposes of this Act, the Authority may in or in relation to any Special Area give special or general directions to any of the Departments and Corporations specified in Schedule A hereto requiring any such Department or Corporation to perform such functions or duties as the Authority may determine; and
- (b) it shall be lawful for any such Department or Corporation to whom any such direction is given, to comply with such direction ; and
- (c) any such Department or Corporation to whom any such direction is given shall comply with such direction; and
- (d) any such Department or Corporation to whom any such direction is given shall be subject to the supervision and control of the Authority in respect of all matters connected with such direction.

(2) Where he considers it expedient to do so for the efficient discharge of the functions of the Authority, the Minister may, with the

approval of the President, by Order published in the Gazette amend, alter or vary Schedule A hereto.

22. (1) The written laws for the time being specified in Schedule B hereto shall have effect in every Special Area subject to the modification that it shall be lawful for the Authority to exercise and discharge in such area any of the powers or functions vested by any such written law in any authority, officer or person in like manner as though the reference in any such written law to the authority, officer or person empowered to exercise or discharge such powers or functions included a reference to the Authority.

Special powers of Authority in Special Area.

(2) No authority, officer or person in which or whom any power or function is vested by any written law for the time being specified in Schedule B hereto shall, in relation to a Special Area, exercise or discharge any such power or function except for the purpose of executing or carrying out any arrangement or contract made by the Authority under section 14.

(3) Any power or function which the Authority is authorized by subsection (1) to exercise or discharge, may be exercised or discharged on behalf of the Authority by any director of the Authority or by any employee of the Authority as is authorized in that behalf by the Authority.

(4) Where he considers it expedient to do so for the efficient discharge of the functions of the Authority, the Minister may, with the concurrence of the Minister concerned and the approval of the President, by Order published in the Gazette amend, alter or vary Schedule B hereto.

23. (1) Where any land or any interest in any land in any Special Area is required by the Authority for any of its purposes, that land or interest may be acquired under the Land Acquisition Act by the Government for the Authority, and the provisions of that Act shall, save as otherwise provided in subsection (2), apply for the purposes of the acquisition of that land or interest.

Compulsory acquisition of land in any Special Area for the Authority.

(2) In any case where any land or any interest in any land in any Special Area is to be acquired under the Land Acquisition Act for any purpose of the Authority and public notice of the intention to acquire that land or interest is published as required by that Act at any time within the period of three years commencing on the date of the publication in the Gazette under section 3 (1) of the Order declaring such Special Area, the following provisions shall apply for the purpose of determining the amount of compensation to be paid in respect of that land or interest, notwithstanding anything to the contrary in that Act:—

(a) the market-value of the land shall be deemed to be the market value the land would have had on the date of such Order if it then was in the same condition as it is at the time of acquisition, increased by a reasonable amount on account of bona fide improvements, if any, effected to such land after such date;

(b) in ascertaining the market value of the land at the date of such Order no account shall be taken of any benefit or increase in value which may have accrued, or any expectation of benefit or increase in value likely to accrue, directly or indirectly, from any work of development or other operation of the Authority in pursuance of this Act.

Possession of land in any Special Area otherwise than under the Land Acquisition Act.

24. (1) The Authority may, by notice published and displayed in accordance with the provisions of subsection (2), require every person who claims any right, title or interest to or in any land situated in such part of a Special Area as is described in the notice to prefer his claim in writing to the Authority within such time as may be specified in the notice.

(2) The notice referred to in subsection (1) shall be published in the Gazette and in at least one newspaper in the Sinhala language and one newspaper in the Tamil language and shall be displayed, in accordance with directions of the Authority, at conspicuous places in such part of a Special Area as is described in the notice.

(3) Where the Authority requires for any of its purposes any land situated in such part of a Special Area as is described in a notice published and displayed under the preceding provisions of this section and where no claim of any right, title or interest to or in that land has been made to the Authority as required by that notice or all the claims made in respect of the land are, after due investigation, considered by the Authority to be invalid, the Authority may with the approval of the Minister, take possession of that land and cause any work to be done thereon, notwithstanding that no proceedings under the Land Acquisition Act have been taken in respect of that land.

(4) Any person authorized in writing in that behalf by the Authority may, for and on behalf of the Authority take possession of any land referred to in subsection (3).

(5) Where any person who is authorized in writing by the Authority to take possession of any land referred to in subsection (3) is unable to take possession of that land because of any obstruction or resistance which has been offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction where that land is situated, be entitled to an order of that court directing the Fiscal to deliver possession of that land to him for and on behalf of the Authority.

(6) Where an order under subsection (5) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and in writing report to that court the manner in which that order is executed.

(7) For the purpose of executing an order issued by a Magistrate's Court under subsection (5), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the land to which that order relates and to eject any person offering obstruction or resistance and to deliver possession of that land to the person who is duly authorized to take such possession for and on behalf of the Authority.

25. (1) Any land of which possession is taken by the Authority under section 24 shall, with effect from the date of

Effect of possession under section 24.

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commencement of such possession, vest absolutely in the Authority free from all encumbrances.

(2) No person claiming any right, title or interest in any land of which possession has been taken by the Authority under section 24 shall, save as provided in subsection (3) of this section, be entitled to institute any suit or other legal proceeding against the Authority in respect of that land, or of taking possession thereof by the Authority or of the doing of any work thereon by or under the Authority.

(3) Any person who would but for the provisions of subsection (1) have any right, title or interest to or in any land of which possession has been taken by the Authority under section 24 may institute in a court of competent jurisdiction an action against the Authority for a declaration of such right, title or interest and for obtaining compensation from the Authority in respect of that land.

(4) The amount of compensation which is to be awarded to any person in an action under subsection (3) shall, save as otherwise provided in subsection (5), be determined on the basis on which compensation would be determined under the Land Acquisition Act if the land in respect of which compensation is to be awarded were acquired under that Act.

(5) Where compensation is to be awarded to any person in an action under subsection (3) in respect of a land of which possession has been taken by the Authority at any time within the period of three years commencing on the date of the Order made under section 3 (1) in respect of any Special Area within which such land is situated, the provisions of paragraphs (a) and (b) of subsection (2) of section 23 shall apply for the purpose of determining the amount of such compensation.

FINANCE

26. There shall be a Fund established for the general financial purpose of the Authority. There shall be paid into the Fund—

- (a) all such sums of money as may be voted from time to time by

Parliament for the use of the Authority;

- (b) all rates, taxes, duties, fees, charges and penalties levied by the Authority under the regulations or rules made or deemed to be made under the provisions of this Act or in the exercise of any powers conferred by or under this Act;
- (c) all revenue derived by the Authority from any property vested in or administered by the Authority ;
- (d) all revenue derived by the Authority for services provided by the Authority;
- (e) all donations or grants made to the Authority; and
- (f) all sums accruing to the credit of the Authority.

27. (1) The Authority may utilize the funds of the Authority for the purpose of defraying any expenditure incurred in the management of the affairs of the Authority, the transaction of the business of the Authority, the payment of remuneration of the Directors and the employees of the Authority and the exercise of the powers and the performance of the duties of the Authority under this Act, and such other purposes as the Authority may authorize from time to time.

Payments out of the Fund.

(2) The Authority shall make rules for the withdrawal of any moneys from the Fund and no sum shall be withdrawn from the Fund except in accordance with such rules.

28. Notwithstanding the provisions of any other written law—

Power of Authority to call upon public corporation, &c., to carry out certain functions.

- (1) the Authority may for the purpose of carrying out any of its functions, allocate funds to any public corporation or to any department of Government with the approval of the Minister concerned or to any corporation established under this Act and it shall be the duty of such corporation or department, as the

Funds of the Authority and payment to be credited to Fund.

case may be, to carry out the said functions, and duly account for the expenditure of such functions;

- (2) the Authority shall be entitled to require such corporation, or department, as the case may be, to furnish such information as may be required by the Authority in respect of the expenditure of such funds and it shall be the duty of such corporation or department to comply with such requirement.

Financial year of the Authority.

29. The financial year of the Authority shall be the calendar year.

Exemption of Authority from payments of taxes.

30. Notwithstanding anything in any other written law—

- (a) all goods of any description imported or purchased out of bond, by the Authority shall be exempt from customs duty;
- (b) the Authority shall be exempt from the payment of stamp duty on any instrument executed by, or on behalf of or in favour of the Authority in cases where, but for this exemption the Authority would be liable to pay the duty chargeable in respect of such instrument:

Provided that such exemption shall not apply to any Corporation or subsidiary under the Authority.

Exemption from certain taxes of approved subsidiaries and investments therein.

31. (1) " Approved subsidiary " means a subsidiary of the Authority or a subsidiary of a corporation established under this Act, which is considered by the Minister to be essential for the economic progress of any Special Area and which is declared by the Minister in charge of the subject of Finance by notice published in the Gazette to be an approved subsidiary.

(2) " Approved investment " means an investment for the purpose of purchasing ordinary shares in any approved subsidiary other than an investment for the purpose of purchasing shares which are not the first issue.

(3) Any person who has made in any year of assessment an approved investment, shall be entitled on account of that investment to such relief from income tax in respect of such year of assessment as will secure that the tax payable by him is reduced to the amount which will be payable as the tax if the amount of the approved investment were deducted from the statutory income of such persons.

(4) The amount of the approved investment shall be excluded from the wealth of any person for the purpose of computing the wealth tax payable by such person for the five years of assessment next succeeding the date on which such investment was made.

(5) The income of any approved subsidiary shall be exempt from any income tax for each of the five years of assessment next succeeding the date on which such subsidiary commenced business.

(6) Any dividend which in any year is paid to the shareholders of any approved subsidiary shall be exempt from income tax for each of the five years of assessment next succeeding the date on which such approved subsidiary commenced business.

32. The emoluments of any scientist, technician, expert, adviser or any other person who is not a citizen of Sri Lanka and who is employed by the Authority or by a corporation or by any approved subsidiary with the prior written approval of the Minister, shall be paid—

Emoluments of experts, Ac., to be free from taxes, &c.

- (i) without deduction for and free from any taxes, duties or fees now or hereafter imposed by or under any law of Sri Lanka; and
- (ii) free from all restrictions now or hereafter imposed by or under any law of Sri Lanka.

33. (1) The Government is hereby authorized to guarantee, on such terms and conditions as the Government may determine, loans raised by the Authority from any local, international or foreign organization approved by the President. The loans authorized to be guaranteed under this subsection may be denominated in foreign currency.

Borrowings of the Authority and Government Guarantees.

(2) All such sums payable by the Government under any guarantee given under subsection (1) are hereby charged on the Consolidated Fund.

(3) All sums payable by the Authority in respect of principal, interest and other charges on any loan to the Authority from any international or foreign organization approved by the President or by the Government under any guarantee given under subsection (1) in respect of such a loan, shall, notwithstanding anything to the contrary in any law of Sri Lanka be paid—

- (i) without deduction for, and free from, any taxes, duties or fees now or hereafter imposed by or under any law of Sri Lanka; and
- (ii) free from all restrictions now or hereafter imposed by or under any law of Sri Lanka:

Provided, however, that the preceding provisions of this subsection shall not apply to any taxes, duties, fees or restrictions upon payments under any bond or promissory note to a holder thereof other than any international or foreign organization when such bond or promissory note is beneficially owned by a person resident in Sri Lanka.

(4) For the purposes of subsection (3), the question whether a person is or is not resident in Sri Lanka shall be determined in accordance with the provisions of the Inland Revenue Act (No. 28 of 1979).

(5) Every guarantee agreement between the Government and any international or foreign organization pursuant to this Act and every guarantee given by the Government pursuant to any such guarantee agreement shall, notwithstanding anything to the contrary in any law of Sri Lanka, be valid and enforceable in accordance with their respective terms.

(6) In the case of any loan made to the Authority by any international or foreign organization approved by the President and guaranteed by the Government the Government shall bear any loss, and be entitled to any profit, resulting from any revaluation of the rupee in relation to the

currency or currencies in which that loan is expressed and the amount of every such loss is hereby charged to the Consolidated Fund.

(7) The President or any person authorized in that behalf by the President by instrument under his hand is hereby empowered on behalf of the Government to sign any guarantee agreement between the Government and any local, international or foreign organization.

(8) Notwithstanding anything in any other written law, no agreement, bond or other document executed by the Authority in respect of any loan which may be raised by the Authority from any local, international or foreign organization approved by the President shall be subject to or be charged with any stamp duty or duties whatsoever.

34. The Authority shall cause the accounts of the Authority to be kept in such form and manner as may be determined by such Authority.

Accounts of the Authority.

ESTABLISHMENT OF CORPORATIONS

35. (1) Where after consultation with the Authority, the Minister considers it desirable that a corporation should be established for the purpose of performing any one or more or any part of any function of the Authority in or in relation to any one or more or any part of any Special Area, the Minister may with the approval of the Cabinet of Ministers by Order (hereinafter referred to as "Incorporation Order") published in the Gazette—

Incorporation Orders for establishment of corporations.

- (a) declare that a corporation shall be established to perform such functions as may be specified in such Order;
- (b) specify the area to which the Order relates;
- (c) assign a corporate name to the corporation ;
- (d) specify the initial share capital of the corporation and specify the amount, if any, of such share capital that shall be payable by the Authority; and

(e) specify any of the powers of the Authority as a special power of the corporation.

(2) Upon the publication of an Order under subsection (1) in the Gazette, a corporation (hereinafter referred to as the "Corporation") shall with the corporate name specified in such Order be deemed to have been established.

Corporation to be a body corporate.

36. (1) The Corporation shall have perpetual succession and a common seal and may sue and be sued in its corporate name and may perform such acts as body corporate may by law perform.

(2) The provision of section 11 of this Act shall, *mutatis mutandis*, apply in relation to any Corporation established under this Act.

Functions of Corporation.

37. The functions of the Corporation shall be those specified in the Incorporation Order and such other functions as may be specified by the Minister by Order published in the Gazette.

Powers of Corporation.

38. (1) The Corporation shall have the power to do all such acts and take all such steps as may be necessary for or conducive or incidental to the performance of its functions.

(2) Without prejudice to the generality of the powers conferred on the Corporation, the Corporation shall have the special powers specified in the Incorporation Order.

Board of Directors.

39. (1) There shall be a Board of Directors of the Corporation (hereinafter referred to as the "Board") which shall consist of seven Directors.

(2) The Board shall consist of such number of Government Directors and such number of Shareholder Directors as may be determined by the Minister by Order published in the Gazette.

Government Directors.

40. (1) Each of the Government Directors shall be appointed by the Minister and shall hold office for a period of three years, unless he earlier vacates office by death, resignation or removal:

Provided that a Government Director appointed in place of a Government

Director who is removed from, or otherwise vacates office shall, unless he earlier is removed from or otherwise vacates office, hold office for the unexpired period of the term of office of the Director whom he succeeds.

(2) The Minister may if he thinks expedient to do so, remove by Order published in the Gazette, any Government Director from office without assigning a reason. The removal of any Government Director from office by the Minister shall not be called in question in any court.

(3) Any Government Director may at any time resign from the Board by letter addressed to the Minister.

(4) Where a Government Director is, by reason of illness, infirmity or any other cause, temporarily unable to perform the duties of his office the Minister may appoint some other person to act in the place of such Government Director.

(5) A Government Director who has been removed from office shall not be eligible for re-appointment as a Director or to serve the Board in any other capacity.

41. The Minister may after consultation with the Authority, give to any Government Director, general or special directions as to the discharge of his functions and the exercise of his powers and such Government Director shall carry out every such direction.

Minister may issue special or general directions to Government Directors.

42. (1) The capital of the Corporation shall be that specified in the Incorporation Order and shall be divided into ordinary shares of one hundred rupees each :

Capital of the Corporation.

Provided that the shareholders may by special resolution increase such capital.

(2) The Authority shall make such contribution to such capital as may be specified by the Minister in the Incorporation Order.

(3) Subject to the provisions of subsection (2), the Board may allot, grant option over or otherwise dispose of the shares referred to in subsection (1), to such

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persons, on such terms and conditions and at such times as they think fit, but no share shall be issued at a discount.

Liability of shareholders.

43. The liability of any shareholder shall be limited to the amount, if any, unpaid in respect of the shares of such shareholder.

Shareholder Director.

44. A Shareholder Director shall be elected by the shareholders for the time being of the Corporation and shall hold office in accordance with the by-laws made in that behalf by the Corporation.

Chairman of Corporation.

45. (1) The Board of Directors may elect any one of the Directors to be the Chairman of the Corporation.

(2) The Chairman shall preside at all meetings of the Board and in the absence of the Chairman any Director elected by the Directors present shall preside at such meeting.

Managing Director of Corporation.

46. The Board may elect any one of the Directors to be Managing Director of the Corporation.

Provisions applicable to Corporation where Authority is not sole shareholder.

47. Where the Authority is not the sole shareholder of a Corporation—

- (1) subject to the provisions of this Act, the provisions of the Companies Ordinance* shall, *mutatis mutandis*, apply to such Corporation in regard to any matter for which there is no provisions in this Act or in any regulation made thereunder;
- (2) the Board of such Corporation may make by-laws dealing with such matters as are not provided for by this Act and which matters in the case of a company formed under the Companies Ordinance, * would be dealt with in the Articles of Association;
- (3) subject to the provisions of this Act, the shareholders may by special resolution direct the Board to amend, vary, alter or resind or add to any by-law made by the Board under subsection (2) in such manner as may be specified in the resolution and the Board shall give effect to such direction;

(4) the by-laws made under this section shall be the by-laws of the Corporation in regard to matters to which they relate and shall be binding on the directors, shareholders and staff of the Corporation;

(5) the Board shall make available for inspection to any person the by-laws made by the Board which are in force for the time being.

48. (1) A Corporation shall not be required to be registered under the Companies Ordinance" nor shall the Registrar of Companies have power in respect of the Corporation.

Application of certain enactments to Corporation.

(2) The Business Undertakings (Acquisition) Act shall not apply in relation to a Corporation or to any approved subsidiary.

49. (1) The accounts of the Corporation shall be audited by two qualified auditors annually appointed by the shareholders of the Corporation.

Audit of accounts.

(2) The shareholders shall determine the remuneration of the auditors of the Corporation.

(3) Each auditor of the Corporation shall be supplied with a copy of the annual balance sheet of the Corporation and it shall be the duty of such auditor to examine such balance sheet together with the accounts and vouchers related thereto. He shall at all reasonable times have access to the books, accounts and vouchers of the Corporation and shall be entitled to require from the directors and officers of the Corporation such information and explanation as may be necessary for the performance of his duties.

(4) Each auditor of the Corporation shall make a written report upon the annual balance sheet and accounts of the Corporation and shall in such report state whether he has or has not obtained all the information and explanations required by him and whether in his opinion, such accounts are properly drawn up so as to exhibit a true and correct view of the Corporation's affairs according to the best of his information and the explanations given to him as shown by the books of the Corporation.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

(5) The report of each auditor of the Corporation shall be transmitted by such auditor to the Board of Directors of the Corporation and to the Authority.

such publication and on such later date as may be specified in the regulation and shall be as valid and effectual as if it were herein enacted.

Power of Corporation to make by-laws.

50. (1) The Board of Directors of a Corporation may make by-laws in respect of all matters for which by-laws are required or authorized by this Act to be made.

(3) Every regulation shall as soon as it is convenient after its publication in the Gazette be brought before the Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder.

(2) Every by-law made under this section 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 thereon.

55. (1) The Authority may make rules in respect of all matters for which rules are required or authorized to be made. Rules.

Certain provisions of this Act to apply *mutatis mutandis* to a Corporation.

51. The provisions of sections 7, 8, 10, 11, 14, 15, 16, 17, 18, 19, 20, 26, 28, 29 and 32 of this Act shall, *mutatis mutandis*, apply in relation to any Corporation established under this Act.

(2) Every rule made by the Authority shall be approved by the Minister and published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.

MISCELLANEOUS

Powers of Minister to order investigation upon activities.

52. The Minister may order all or any of the activities of the Authority to be investigated and reported upon by such person or persons as he may specify and upon such order being made, and Authority shall afford all such facilities to carry out such order.

56. The Authority and every Corporation established under this Act shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act, shall be construed accordingly. Authority and Corporation to be scheduled institutions within the meaning of the Bribery Act.

Directions of the Minister.

53. (1) The Minister may, after consultation with the Authority, give to the Authority in writing general or special directions as to the performance of the duties and the exercise of the powers of the Authority and the Authority shall carry out such directions.

57. All members, officers and servants of the Authority and every Corporation established under this Act shall be deemed to be public servants within the meaning and for the purposes of the Penal Code. Members, officers and servants of Authority, Ac., deemed to be public servants.

(2) The Minister may, from time to time, direct the Authority in writing to furnish to him in such form as he may require, returns, accounts and other information with respect to the property and business of the Authority and the Authority shall carry out every such direction.

58. No local authority shall without the concurrence of the Minister, be constituted in any Special Area notwithstanding anything in any other written law. Local authority not to be constituted without concurrence of Minister.

Regulations.

54. (1) The Minister may after consultation with the Authority, make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

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

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of

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(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any such suit or prosecution shall be credited to the funds of the Authority.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds that such act is done in good faith, be paid, out of the funds of the Authority, unless such expenses is recovered by him in such suit or prosecution.

Interpretation. **60.** In this Act, unless the context otherwise requires—

" any other written law " means any written law other than this Act, whether enacted or to be enacted ;

" Authority " means the Mahaweli Authority of Sri Lanka;

" citizen of Sri Lanka " means—

(a) in the case of a person who is an individual, who is a citizen of Sri Lanka under any law for the time being in force relating to such citizenship;

(b) in the case of a person which is a company, means a company to which Part XI of the Companies Ordinance* does not apply; and

(c) in the case of a person which is a firm consisting of more than two persons, means a firm where the majority of the partners are citizens of Sri Lanka;

" Corporation " means a Corporation established under this Act;

" 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;

" person " includes a company or body of persons;

" 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;

" qualified auditor " means—

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

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

" special resolution " means a resolution passed by a majority of not less than three-fourths of such shareholders as, being entitled to do so, vote in person or by proxy at a meeting of the shareholders of which not less than twenty-one days' notice has been duly given to the shareholders specifying the resolution intended to be proposed at that meeting;

* Repealed and replaced by the Companies Act, No. 17 of 1982.

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" subsidiary " means a company with limited liability registered under the provisions of the Companies Ordinance * of which not less than ten *per centum* of the share capital is owned by the Authority or by a Corporation established under this Act.

SCHEDULE A

[Section 21.]

The Mahaweli Development Board established under the Mahaweli Development Board Act-
The Central Engineering Consultancy Bureau established under the State Industrial Corporations Act.
The Ceylon Electricity Board established under the Ceylon Electricity Board Act.
The River Valleys Development Board established under the River Valleys Development Board Act.
The Survey Department.
The Irrigation Department.

SCHEDULE B

[Section 22.]

Agricultural Development Authority Incorporation Order.
Agricultural Machinery Act.
Animals Act.
Co-operative Societies Law.
Entertainment Tax Ordinance.
Fauna and Flora Protection Ordinance.
Flood Prevention Ordinance.
Forest Ordinance.
Irrigation Ordinance.
Land Development Ordinance.
Mahaweli Development Board Act.
Mines and Minerals Law.
National Water Supply and Drainage Board Law.
Paddy Marketing Board Act.
River Valley Development Board Act.
Sale of State Lands (Special Provisions) Law, No. 43 of 1973.
State Land Ordinance.
State Land (Recovery of Possession) Act.
Thoroughfares Ordinance.
Tolls Ordinance.
Vehicles Ordinance.
Water Resources Board Act
Wells and Pits Ordinance,
Written law enacted under any of the aforesaid enactments.

* Repealed and replaced by the Companies Act, No. 17 of 1982,

CHAPTER 548

MILK BOARD

Acts
Nos. 12 of 1954,
28 of 1955,
9 of 1957,
18 of 1964.

AN ACT TO PROVIDE FOR THE CONSTITUTION OF A BOARD TO ESTABLISH AND MAINTAIN FACILITIES AND SERVICES FOR THE EFFICIENT AND CHEAP PRODUCTION AND MARKETING OF MILK, TO PROMOTE THE ESTABLISHMENT AND MAINTENANCE OF SUCH FACILITIES AND SERVICES BY LOCAL AUTHORITIES AND OTHER BODIES AND PERSONS AND TO PROVIDE FOR MATTERS INCIDENTAL TO OR CONNECTED THEREWITH.

[23rd July, 1954.]

Short title.

1. This Act may be cited as the Milk Board Act.

(b) if he has, directly or indirectly, any interest in a subsisting contract with, or in any work being done for, the board except as a shareholder (other than a director) in an incorporated company consisting of more than twenty-five members.

PART I

ESTABLISHMENT OF MILK BOARD

Establishment of Milk Board.

2. (1) A board to be called the Milk Board (in this Act referred to as "the board") is hereby established for the purposes of this Act.

(3) Where a member of the board is a shareholder (other than a director) in an incorporated company referred to in subsection (2) (b) which has entered into any contract with, or is doing any work for, the board, he shall disclose to the Minister the nature and the extent of the shares held by him in such company.

(2) The board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Common seal of the board.

3. The common seal of the board shall be officially and judicially noticed and shall be kept by such person and in such manner as the board may, from time to time, determine. The seal shall not be used except by the authority of the board and in the presence of at least two members thereof who shall sign the document to which the seal is affixed.

(4) The Minister may, if he thinks it expedient to do so, remove, by Order published in the Gazette, any member of the board from office without reason stated.

Constitution of board. [§2.9 of 1957.]

4. (1) The board shall consist of seven members appointed by the Minister, one of whom shall be an officer of the General Treasury nominated by the Minister in charge of the subject of Finance. The Minister shall appoint one of the members to be the chairman of the board.

(5) Any member of the board in respect of whom an Order under subsection (4) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette.

(2) A person shall be disqualified for appointment as a member of the board or for continuing as a member of the board—

(6) Any member of the board who has been removed from office shall not be eligible for reappointment as a member of the board or to serve the board in any other capacity.

(a) if he is a Member of Parliament; or

(7) If the chairman or any member of the board is temporarily unable to discharge the duties of his office on account of ill health or absence from Sri Lanka or for any other cause, the Minister may appoint some other

member to act in his place as chairman or, as the case may be, may appoint some other person to act in his place as a member.

(8) Every member of the board shall, unless he earlier vacates office by death, resignation or removal, hold office for a period of five years. Any such member who vacates office by effluxion of time shall be eligible for reappointment.

(9) 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 of a member thereof.

Remuneration of members of the board.

5. The members of the board shall be remunerated in such manner and at such rates as may be determined by rules made under this Act.

Appointment of officers and servants.

6. (1) The board may appoint such officers and servants as it considers necessary for the efficient discharge of its functions under this Act:

Provided that a person who is not a citizen of Sri Lanka according to the law for the time being in force relating to citizenship of Sri Lanka, shall not be appointed an officer or servant of the board without the prior sanction of the Minister.

(2) The officers and servants 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.

[§2, 18 of 1964.]

(3) The board 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 the fund out of the moneys of the board.

(4) No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract made by or on behalf of the board shall become or remain an officer or servant of the board.

7. Contracts on behalf of the board may be made as follows:—

(a) a contract which if made between private persons would be by law required to be in writing, may be made on behalf of the board in writing under the common seal of the board ;

(b) a contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the board in writing, signed by any person or persons duly authorized thereto by the board ; and

(c) a contract which if made between private persons would in law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the board by any person duly authorized thereto by the board.

8. The board may delegate any of its functions or any of its powers (other than the power to make rules or to appoint officers) to any member or officer of the board, and may, from time to time, revoke any such delegation either wholly or in part and either as to persons or purposes; but every such member or officer shall, in the discharge of the functions or exercise of the powers delegated to him, conform to all such directions as are given by the board. All acts done by any such member or officer, in conformity with such directions and in fulfilment of the purposes of his appointment, but not otherwise, shall have the like force and effect as if done by the board.

Delegation of functions and powers of board.

PART 11

FUNCTIONS AND POWERS OF THE BOARD

9. (1) The functions of the board shall be to establish and maintain efficient and cheap milk production and marketing services, and to promote the establishment and maintenance of such services by local authorities, and by other bodies and persons approved by the Minister, for the purpose

Functions of the board.

of ensuring that an adequate supply of milk of good quality at reasonable prices is available to consumers of milk in Sri Lanka.

(2) For the purposes of this Act, milk production and marketing services mean facilities and services for the production and marketing of milk, including—

- (a) dairies and dairy farms;
- (b) the breeding, sale and purchase of livestock;
- (c) the purchase, sale and distribution of milk;
- (d) the grading, packing, storage, adaptation for sale, insurance and advertisement of milk;
- (e) the purchase, storage, sale and distribution of forage;
- (f) depots and establishments for the storage, sale, distribution and marketing of milk and forage;
- (g) the acquisition and maintenance of all such livestock, land, buildings, plant, machinery, vehicles and other equipment as may be necessary for the purposes aforesaid ; and
- (h) all such other matters and things as may be ancillary to the matters or things referred to in the preceding paragraphs.

Power of board to establish its own departments, &c.

10. The board may establish its own departments or agencies for the purpose of the discharge of its functions and the exercise of its powers under this Act, or make contracts or other arrangements for such purpose with Government departments, local authorities or any person or body of persons.

Power of board to sell property.

11. The board may sell or otherwise dispose of any movable or immovable property belonging to the board which in its opinion is not required for the proper discharge of its functions.

12. The board may, subject to such conditions or restrictions as may be prescribed by rules made under this Act—

Assistance to local authorities and other bodies.

- (a) grant a loan to any local authority or to any other body or person approved by the Minister for the purpose of assisting such authority, body or person to defray the cost of establishing and maintaining milk production and marketing services;
- (b) make a grant of money to such authority, body or person for the purpose aforesaid;
- (c) sell or let for hire to such authority, body or person any plant, machinery, vehicles and other equipment required for the establishment or maintenance of such services; and
- (d) make available, whether for fee or otherwise, to such authority, body or person any milk production and marketing services maintained by the board.

13. The board may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance, raise loans from the Government or any person or body of persons for the purpose of discharging its functions under this Act.

Power to raise loans.

14. (1) The board may make rules in respect of all or any of the following matters:—

Power to make rules.

- (a) any matter which is required to be prescribed ;
- (b) any matter which has to be determined under section 5 ;
- (c) the matters referred to in subsection (3) of section 6, including in the case of a provident fund the contributions to be made thereto by officers and servants of the board and the deduction of such contributions from the salaries of such officers and servants ,

[§ 3,18 of 1964.]

(d) the appointment, promotion, dismissal and disciplinary control of its officers and servants ;

(e) the meetings of the board and the quorum for, and the procedure to be followed at, such meetings.

(2) No rule made under subsection (1) shall have effect until it has been approved by the Minister, confirmed by Parliament, and published in the Gazette.

(3) The Minister shall not, without the concurrence of the Minister in charge of the subject of Finance, approve of any rule made by the board in respect of any matter referred to in paragraphs (b), (c) and (d) of subsection (1).

(4) Every rule made under subsection (1) and approved by the Minister and confirmed by Parliament shall, upon its publication in the Gazette, be as valid and effectual as if it were herein enacted.

PART III

FINANCE AND ACCOUNTS

Fund and general reserve of the board.

15. (1) The board shall have its own fund and a general reserve.

(2) All moneys received by the board, including such sums as may be voted by Parliament for the use of the board, shall be credited to the fund, and all payments made by the board shall be made therefrom.

(3) Save as otherwise provided in section 21, the amount standing to the credit of the general reserve shall not be expended for any purpose except with the prior approval of the Minister.

Accounts of the board.

16. (1) The board shall cause its accounts to be kept in such form and in such manner as may be prescribed.

(2) The books of account of the board shall be kept at the head office of the board.

(3) The board shall cause its books to be balanced on the thirty-first day of December in each year and shall, before the first day of July of the following year, cause to be

prepared a profit and loss account and a balance sheet containing a summary of the assets and liabilities of the board made up to the date aforesaid. The profit and loss account and the balance sheet shall be signed by the accountant and such other officer as may be named by the board.

17. The board shall have its accounts audited each year by the Auditor-General. Audit.

18. (1) The Auditor-General shall examine the accounts of the board, and ascertain the correctness of the balance sheet and furnish a report stating— Auditor's report.

(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 board's affairs.

(2) The report of the Auditor-General shall be transmitted by him to the board and a copy thereof shall be furnished by him to the Secretary to the Ministry.

(3) The board shall, on receipt of the Auditor-General's report in each year, transmit the report, together with the profit and loss account and the balance sheet to which the report relates, to the Minister who shall cause copies thereof to be laid before Parliament.

19. A receipt signed by two members of the board or by an officer expressly authorized by the board to give receipts shall be an effectual discharge for moneys paid to the board. Receipts of board.

20. The net annual profits of the board for each financial year may be applied to such purposes, including the payment of a bonus to members of the staff of the board, as may be determined by the board with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Finance, and all sums not so applied for any purpose shall be carried to the general reserve, Application of profits.

Investment of
general reserve,

21. The amount standing to the credit of the general reserve may be invested in securities of any description referred to in section 20 of the Trusts Ordinance ; and the moneys realized from the sale of any such securities may be reinvested in securities of the like description.

services; and the provisions of such written law shall be construed accordingly.

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

Minister's
directions to
the board.

PART IV

MISCELLANEOUS

Local
authorities.

22. (1) The public services which any local authority is authorized to establish and maintain by or under any written law regulating its powers and duties shall be deemed to include milk production and marketing services ; and the provisions of such written law shall be construed accordingly.

(2) The powers vested in any local authority by or under any written law regulating its powers and duties shall be deemed to include the power to make any contracts or other arrangements with the board for the purpose of establishing and maintaining milk production and marketing

24. In this Act, unless the context otherwise requires— Interpretation.

" chairman " means the person appointed by or under this Act to be or to act as the chairman of the board ;

" local authority " includes any Municipal Council, Urban Council, Town Council, Village Council, or any other authority designated as such for the purposes of this Act by the Minister by Order published in the Gazette;

" milk " means the milk of the cow or the buffalo, or the goat, or any article manufactured or produced from such milk.

CHAPTER 532

MOTOR CAR (CONVENTIONS)

Ordinances AN ORDINANCE TO ENABLE REGULATIONS TO BE MADE FOR THE PURPOSE OF GIVING
Nos.25 of 1932, EFFECT TO ANY CONVENTION FOR FACILITATING THE INTERNATIONAL
26 of 1935. CIRCULATION OF MOTOR CARS.

[25th October, 1932.]

Short title. **1.** This Ordinance may be cited as the Motor Car (Convention) Ordinance.

certificates, authorities, or other documents issued under this Ordinance;

Power to make regulations for carrying out conventions as to international circulation of motor cars. **2.** (1) For the purpose of giving effect to any convention for facilitating the international circulation of motor cars the Minister may make regulations—

(e) modifying the provisions of the Motor Traffic Act, relating to the weight, dimensions, equipment, registration, or licensing of motor cars brought temporarily into Sri Lanka by persons resident abroad and intending to make only a temporary stay in Sri Lanka, and the granting of driving licences or temporary driving licences, to the drivers of such cars and to drivers entering Sri Lanka for the purpose of driving such cars ; and

(a) providing for the grant and authentication of any driving passes, certificates, fiscal permits, or authorities which may be of use to persons resident in Sri Lanka when temporarily taking their motor cars abroad, or to drivers when proceeding abroad for the purpose of driving motor cars, and providing for the examination of such motor cars and drivers for the purpose of granting such passes, certificates, fiscal permits, or authorities;

(f) exempting all or any of such motor cars as are mentioned in paragraph (e) from the licence duty payable under the Motor Traffic Act, whether for a specified period or otherwise.

(b) prescribing the forms to be used and the fees to be paid for the purposes specified in paragraph (a) and for all purposes connected therewith or incidental thereto;

(2) No regulation made under this section shall have effect unless it has been approved by Parliament. Notification of such approval shall be published in the Gazette and no regulation shall come into operation until the date of the publication of such notification.

(c) prescribing the manner in which fees imposed under this Ordinance may be recovered;

(d) prescribing the person or the officer who, or the association which, shall grant or authenticate the passes,

(3) Any modifications of the Motor Traffic Act made by regulation under this section shall have effect as if they were contained in that Act.

CHAPTER 576

MUNICIPAL COUNCILS

Ordinance AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO MUNICIPAL COUNCILS. No. 29 of 1947,

Acts

- Nos 1 of 1949, 9 of 1950, 3 of 1951, 12 of 1951, 39 of 1951, 8 of 1952, 38 of 1953, 7 of 1954, 26 of 1954, 44 of 1954, 22 of 1955, 22 of 1956, 15 of 1957, 39 of 1958, 12 of 1959, 9 of 1961, 39 of 1961, 2 of 1967, 8 of 1967, 42 of 1968, 4 of 1969, 48 of 1971,

Laws

- Nos.38 of 1973, 8 of 1974, 4 of 1975, 5 of 1975, 18 of 1977, 24 of 1977,

Acts

- Nos.18 of 1979, 42 of 1979, 57 of 1979.

[15th August, 1947.]

Short title. 1. This Ordinance may be cited as the Municipal Councils Ordinance. (c) assign a name and designation to the Municipal Council to be constituted for the Municipality so declared.

PART I

CONSTITUTION OF MUNICIPAL COUNCILS

Power to declare areas to be Municipalities and to define their limits.

2. The Minister may, by Order published in the Gazette—

- (a) declare any area to be a Municipality; (b) define the limits of the Municipality so declared; and

3. A Municipal Council in accordance with the provisions of this Ordinance shall be constituted for every area declared to be a Municipality by Order under section 2.

Municipal Council to be constituted for each Municipality.

4. The Municipal Council constituted for each Municipality shall, subject to the powers reserved to or vested in any other authority by this Ordinance or by any other written law, be the local authority, within the administrative limits of the Municipality, charged with the regulation,

Functions of Municipality Councils.

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 people and the amenities of the Municipality.

Composition of Municipal Councils. [§ 94, Law 24 of 1977.]

5. (1) Each Municipal Council shall consist of the Mayor and Deputy Mayor and such number of other Councillors as the Minister may prescribe by Order published in the Gazette.

(2) In determining the number of Councillors the Minister shall have regard to the area and population of the Municipality.

(3) Every Order made under subsection (1) shall as soon as may be convenient be laid before Parliament.

Arrangements preliminary to constitution of Municipal Councils.

*7. For the purposes of any preliminary arrangements in connexion with the constitution of any Municipal Council under this Ordinance, it shall be lawful for the Minister, by an Order or Orders published in the Gazette, to issue all such directions as may be necessary or appropriate, or to modify or supplement any of the provisions of this Ordinance in such manner and to such extent as may be specified by him in such Order; and every such Order shall have the same effect in relation to the purposes aforesaid as if it had been embodied in this Ordinance.

PART II

ELECTION AND TERM OF OFFICE OF COUNCILLORS

First general election of Councillors.

8. Where a Municipal Council is to be constituted for any Municipality under this Ordinance, a general election in accordance with the provisions of the Local Authorities Elections Ordinance shall be held for the purpose of electing the first Councillors of the Council.

9. The term of office of each Municipal Council to be constituted under this Ordinance shall commence on such date as the Minister may appoint by Order published in the Gazette. Such date shall be deemed to be the date of the constitution of the Council for all the purposes of this Ordinance; and the Council shall be deemed to be constituted on that date, notwithstanding that the full number of Councillors prescribed under section 5 may not have been duly elected.

Commencement of term of office of Municipal Councils and date of constitution of such Councils.

10. (1) The term of office of each Councillor elected at a general-election shall commence—

Term of office of Councillors.

(a) in the case of the first general election, on the date specified by the Minister by Order under section 9;

(b) in the case of any general election subsequent to the first general election, on the first day of January next succeeding the date of the election or on such other date as the Minister may appoint by Order published in the Gazette,

and shall expire on the thirty-first day of December of the fourth year thereafter (inclusive of the year in which such term of office commenced) or on such other date as may be appointed by the Minister under subsection (2).

[§ 2, 39 of 1961.] [§ 2, 2 of 1967.]

(2) The Minister may by Order published in the Gazette—

(a) curtail the term of office referred to in subsection (1) by appointing, in substitution for the thirty-first day of December of the year specified in that subsection, the last day of any month in that year or in the year immediately preceding that year; and

(b) extend such term by appointing, in substitution for the thirty-first day of December of the year specified in subsection (1) or the day appointed under paragraph (a) of this

* Section 6 is repealed by Law No. 24 of 1977.

[§ 2, 2 of 1967.]

subsection, the last day of any month in that year or in any year subsequent to the year so specified or appointed, and thereafter, from time to time, extend such term by appointing in substitution for the date of expiry of such term specified in the last Order, a later date;

Commissioner, at any time before the date fixed for the first meeting of the Council after his election ; or

- (ii) by a written communication of his resignation of office to the Commissioner, at any time after such first meeting.

[§ 2, 2 of 1967.]

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is, from time to time, extended shall not exceed twelve months.

(2) Any Councillor who, without leave of the Council first obtained, fails to attend three consecutive general meetings of the Council shall *ipso facto* vacate his office.

Subsequent general elections.

11. Where the term of office of the Councillors elected at a general election is due to expire under section 10, a general election in accordance with the provisions of the Local Authorities Elections Ordinance shall be held for the purpose of electing new Councillors in place of such Councillors.

(3) If any person elected as a Councillor refuses or resigns his office, or dies, or vacates his office under subsection (2) or if a casual vacancy occurs in any other manner in such office, the Mayor or the Commissioner, as the case may be, shall send a written communication to that effect to the elections officer. Upon the receipt of such communication, the elections officer shall proceed to fill the vacancy in accordance with the provisions of the Local Authorities Elections Ordinance, and the person thereupon elected shall serve as a Councillor until the expiry of the term of office of the Councillors elected at the last preceding general election. [§ 97, Law 24 of 1977.]

Refusal, resignation or vacation of office.

***13.** (1) Where any person who is elected as a Councillor decides for any reason not to serve as a Councillor, he may—

- (a) if he is not the Mayor, relinquish the office of Councillor—
 - (i) by a written communication of his refusal of office to the Mayor, or in the event of any vacancy in the office of Mayor to the Commissioner, at any time before the date fixed for the first meeting of the Council after his election; or
 - (ii) by a written communication of his resignation of office to the Mayor, or in the event of any vacancy in the office of Mayor to the Commissioner, at any time after such first meeting; or
- (b) if he is the Mayor, relinquish the office of Councillor—
 - (i) by a written communication of his refusal of office to the

PART III

MEETINGS AND CONDUCT OF BUSINESS

MAYOR AND DEPUTY MAYOR

14. (1) There shall be a Mayor and a Deputy Mayor for each Municipal Council who shall be Councillors and be elected in accordance with the provisions of the Local Authorities Elections Ordinance. Term of office of Mayor and Deputy Mayor. [§ 99, Law 24 of 1977.]

(2) (a) The Mayor or Deputy Mayor of a Municipal Council shall hold office for the term of office of the Council unless he resigns or vacates such office.

(b) Whenever a Mayor or Deputy Mayor vacates his office he shall at the same time cease to be Councillor.

* Section 12 is repealed by Law No. 24 of 1977.

(3) The Mayor of a Municipal Council shall, subject to the provisions of section 254A, be the chief executive officer of the Council and all executive acts and responsibilities which are by this Ordinance or by any other written law directed or empowered to be done or discharged by the Council may, unless the contrary intention appears from the context, be done or discharged by the Mayor.

(4) The Mayor may by order in writing delegate to the Deputy Mayor or Commissioner or any officer of the Council any of the powers, duties or functions conferred or imposed upon or vested in the Mayor by this Ordinance or any other written law.

(5) The exercise, discharge or performance by the Deputy Mayor or Commissioner or any other officer of the Council of any power, function or duty delegated to him by order of the Mayor shall be subject to the direction and control of the Mayor and shall be subject to such conditions and restrictions and limited to such purpose or purposes as may be specified in the order and any such delegation may at any time be varied or cancelled by order of the Mayor.

(6) During the period commencing on the date of occurrence of a vacancy in the office of Mayor and ending on the date of election of a new Mayor or during the period of absence of the Mayor on account of illness or other unavoidable cause the Deputy Mayor may exercise, discharge and perform the same powers, functions and duties as the Mayor.

(7) Whenever the office of Mayor of a Municipal Council falls vacant information of the occurrence of the vacancy shall forthwith be given to the elections officer of the district, in writing, by the Commissioner of the Council. Upon the receipt of such information the elections officer shall proceed to fill the vacancy in the manner prescribed in the Local Authorities Elections Ordinance.

***16.** The Mayor and Deputy Mayor of the Council shall each, during the tenure of his office, be ex officio a Justice of the Peace and Unofficial Magistrate for the administrative district in which the Municipality is situated.

Mayor and Deputy Mayor to be Justices of the Peace and Unofficial Magistrates.

MEETINGS

17. There shall be twelve general meetings of each Municipal Council in every year for the transaction of business. The general meetings shall be held at the Municipal office during the first week of every month, or as soon thereafter as seems expedient to the Mayor.

General meetings.

18. The Mayor may, whenever he thinks fit, and shall upon a written requisition signed by three Councillors, call a special meeting of the Council to be held at the Municipal office.

Special meetings. [§ 101, Law 24 of 1977.]

19. The Mayor shall cause notice in writing of every general or special meeting or adjourned meeting of the Council, and of the business to be transacted thereat to be served on each Councillor at least four days before the meeting.

Notice of meetings. (§ 102, Law 24 of 1977.)

20. Without the permission of a Municipal Council, no business shall be brought before or transacted at any general or special meeting, other than the business specified in the notice of the meeting.

Business at meetings.

21. (1) All matters or questions authorized by this Ordinance or by any other written law to be decided by a Municipal Council shall be decided by a majority of the Councillors present and voting at any general or special meeting.

Decisions of questions, and quorum.

(2) No business shall be transacted at any meeting of the Council unless one-third of the number of Councillors in office on the day of that meeting is present.

22. The Mayor, or in his absence, the Deputy Mayor, shall preside at all meetings of the Council, and if both the Mayor and the Deputy Mayor are absent, the Councillors present shall elect one of their own number to preside at the meeting.

Mayor or Deputy mayor to preside at meetings of Council. [§ 103, Law 24 of 1977.]

* Section 15 is repealed by Law No. 24 of 1977.

Adjournment in case of absence of quorum.

23. If at any general or special meeting of a Municipal Council there is not a sufficient number of Councillors present to form a quorum, the meeting shall stand adjourned to such date, not more than fifteen days after the date of the meeting so adjourned, as the Mayor thinks fit; and the business which would have been brought before the meeting so adjourned if there had been a quorum present, shall be brought before, and disposed of at, such adjourned meeting.

Adjournment of meetings.

24. The Mayor, Deputy Mayor or other Councillor presiding at any general or special meeting at which a quorum of the Council is present, may, with the consent of the meeting, adjourn the meeting, from time to time; but no business shall be transacted without the permission of the Council at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Minutes of proceedings.

25. Minutes of the proceedings of all meetings of a Municipal Council shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the Mayor, Deputy Mayor or other presiding Councillor after each meeting and shall at all reasonable times be open at the Municipal office to the inspection, free of charge, of any Councillor, and to the inspection of any other person on payment of a fee of twenty-five cents.

COMMITTEES

Standing committees.

26. (1) Every Municipal Council shall at its first general meeting in each year elect by ballot from among the Councillors a standing committee on finance and not less than two other standing committees.

(2) The Mayor shall not be eligible for election to any standing committee,

(3) A Councillor other than the Mayor shall not be eligible for election to more than one standing committee until every other such Councillor has been elected to at least one standing committee and shall not in any event be eligible for election to more than two standing committees.

(4) Every standing committee other than the standing committee on finance shall consist of six Councillors elected as aforesaid, and the standing committee on finance shall consist of five Councillors so elected and the Mayor who shall ex officio be a member of it. If during the year any vacancy occurs in any standing committee the Council shall at a general or special meeting elect a Councillor to fill the vacancy.

(5) The Mayor shall ex officio be the chairman of the standing committee on finance, but every other standing committee shall at its first meeting elect by ballot its own chairman.

(6) The Mayor may be present and may speak but not vote at a meeting of any of the standing committees other than the standing committee on finance; and, if present, he shall preside and may both speak and vote at every joint meeting of the standing committee on finance and any other standing committee or committees.

(7) In the absence of the Mayor from any meeting of the standing committee on finance, or from any joint meeting of that committee and any other standing committee or committees, and in the absence from any meeting of any such other standing committee of the chairman elected under subsection (5), the members of the committee or committees concerned shall elect a chairman for the meeting from among their own number.

(8) Every standing committee shall exercise, perform and discharge such powers, duties and functions as are delegated to it by the Council, or otherwise conferred or imposed upon, or vested in it.

(9) No business shall be transacted at any meeting of a standing committee or at any joint meeting of two or more standing committees unless the prescribed quorum is present. Until a by-law is made by the Council prescribing the quorum at any meeting of a standing committee or at any joint meeting of two or more standing committees, one-third of the total number

MISCELLANEOUS

of the members of such committee or committees, as the case may be, shall form a quorum:

Provided that at least one member of each such committee is present.

(10) The Council may by resolution decide that the election of the standing committees referred to in subsection (1) shall be adjourned to the second general meeting of the Council in any year and, upon the passing of any such resolution, such election shall be so adjourned and the provisions of subsections (1) to (4) shall apply accordingly subject only to the modification effected by such resolution.

Special committees.

27. (I) A Municipal Council may, from time to time, appoint from among the Councillors special committees, consisting of such number as it thinks fit, for the purpose of inquiring into and reporting upon any Municipal matter.

(2) Every special committee shall at its first meeting elect by ballot its own chairman and shall continue to be a committee until it has reported to the Council and until its report has been finally considered by the Council.

(3) At the time of appointing a special committee, the Council may determine the number of members who are to form a quorum; and where such quorum is not determined by the Council two-thirds of the members of the special committee shall form a quorum at any meeting thereof.

Financial matters and finance committee.

28. No financial matter shall be finally dealt with by a Municipal Council unless such matter has been first dealt with and reported on by the standing committee on finance.

Custody of Municipal books, papers, &c., and access thereto by committees and Councillors.

29. Every meeting of a standing or a subcommittee of a Municipal Council shall be held at the Municipal office or at such other place as the committee may decide and any such committee shall at any such meeting have access to the books, deeds, contracts, accounts, vouchers, and other documents and papers of the Council.

30. Where the votes of the Councillors present and voting at any meeting, general or special, of the Council, or of any standing or other committee of the Council, are equally divided in regard to any question, the Mayor, Deputy Mayor or other Councillor presiding at such meeting shall, in addition to his own vote as a Councillor or as a member of the Committee, have a casting vote. Casting vote.

31. All notices of meetings may be forwarded by post addressed to the usual or last known place of abode of the Councillor to be served; and where a notice is so forwarded by post it shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post. Notices may be served by post.

32. A Municipal Council may by resolution delegate generally or specially to the Mayor or Deputy Mayor or to the Commissioner or to any one or more of its officers or committees any of the powers, duties or functions conferred or imposed upon or vested in it by or under this Ordinance or by any other written law. Delegation of powers, duties and functions of Council.

33. Subject to the provisions of section 21, nothing which is done or determined by a Municipal Council under the provisions of this Ordinance or of any other written law shall be or be deemed to be illegal or invalid by reason only of the fact that any Councillor was absent from the Council or that there was any vacancy in the number of the Councillors at the time such thing was done or determined. Acts of Council not invalidated by vacancies or absence of Councillors.

PART IV

STATUS, POWERS AND DUTIES OF MUNICIPAL COUNCILS

34. (1) Every Municipal Council shall be a corporation with perpetual succession and a common seal and shall have power, subject to this Ordinance, to acquire, hold and sell property, and may sue and be sued by such name and designation as may be assigned to it under this Ordinance. Municipal Councils to be corporations.

(2) The common seal of the Council shall remain in the custody of the Commissioner, and shall not be affixed to any contract or other instrument on behalf of the Council, except in the presence of the Mayor or Deputy Mayor and the Commissioner who shall sign their names to such contract or other instrument in token of their presence.

Lands vested in Municipal Councils.

35. There shall be vested in the Municipal Council of each Municipality all such immovable property of the following classes, namely:—

- (a) waste lands;
- (b) stone, gravel and cabook quarries;
- (c) lakes, ponds, reservoirs, tanks, aqueducts and other waterworks;
- (d) State lands, whether with or without buildings,

as may be situate within the limits of the Municipality and may be or have been made over, with the sanction of the President or the Governor-General, as the case may be, to the Council under this Ordinance or under any repealed enactment.

Method of granting administration, &c., of such lands.

36. (1) A vesting order, certificate or other record signed by the person authorized to make over any property referred to in section 35, and by the officer of the Municipal Council authorized to receive or accept such property on behalf of the Council, shall be sufficient, and shall be deemed at all times to have been sufficient, to vest such property and all right, title and interest in such property in the Council:

Provided, however, that nothing in section 35 or in the preceding provisions of this section shall be deemed—

- (i) to affect or prejudice any right or title of the State to any such property or the right of the State at any time to resume or dispose of such property for public purposes; or
- (ii) to affect or prejudice any right, title or interest which any military or

other authority, in which lands are vested on behalf of the State, has or may have in any such property or in any part thereof;

- (iii) to empower the Council to sell or otherwise alienate any such property without having previously obtained the consent in writing of the President to such sale or alienation.

(2) All property vested in a Municipal Council shall be administered, and the revenue thereof shall be employed and made use of, for the purposes of this Ordinance.

37. (1) There shall be further vested in each Municipal Council, for the purposes of this Ordinance, the following classes of property:—

Other property vested in Municipal Councils-

- (a) all public parks, gardens and open spaces acquired by or otherwise transferred to the Council, and all erections and other structures therein and the equipment thereof, subject always to the terms of any trust or the conditions in any instrument by which any such property may have been transferred to the Council;
- (b) all streets within the Municipality (except such streets as may be specially exempted by the President) together with the pavements, stones and other materials thereof and also all erections, materials, implements and things provided therefor;
- (c) all public markets and all works, erections or structures for the benefit or convenience of the public which may be constructed, erected or provided under this Ordinance or which may have been constructed, erected or provided under any repealed enactment, or which may be otherwise transferred or have been transferred to the Council, and all the sites, reservations, appurtenances, materials, furniture and equipment

provided therefor, subject always to any such trust or condition as aforesaid;

(d) all other public buildings constructed or provided in whole or in part out of the Municipal Fund of the Council, or which may be otherwise transferred to the Council, and all the sites, appurtenances, materials, furniture and equipment thereof, subject always to any such trust or condition as aforesaid;

(e) the property of and in all the lamps, lamp-irons, lamp-posts, sluices, dams, pipes, posts, chains, poles, rails and other similar erections and things in, about or belonging to the streets vested in the Council, and of and in all the materials, furniture and things belonging thereto, except in so far as the same shall be otherwise regulated by contract with the Council or shall be otherwise shown to be private property or subject to private rights.

(2) Any property referred to in paragraph (e) of subsection (1) may be sold or otherwise disposed of by the Council, from time to time, as it may deem necessary, and the revenue arising from such sale or disposition shall be credited to the Municipal Fund.

Control and erection of monuments. [§ 7, Law 4 of 1975.]

***37A.** No person shall erect a monument on any land belonging to the State or on any land vested in or belonging to any Municipal Council except with the prior approval of the Minister granted upon an application made in that behalf by such person.

[§ 9, Law 4 of 1975.]

In this section " monument " includes any statue, pillar, post, or any structure erected to commemorate any person, whether living or dead, but does not include any structure, tomb, or cross erected in any cemetery or burial ground.

***37B.** It shall not be lawful for any Municipal Council to name any public park, playground, library, reading room, stadium, building, clock tower, bridge or bathing-well except with the prior approval of the Minister.

Naming of public parks, &c, [§ 8, Law 4 of 1975.]

38. A Municipal Council may receive and hold property in trust for the benefit of the inhabitants of the Municipality, or any section of such inhabitants, or for the purposes of any public service administered by the Council, and may otherwise act as trustee for any public purpose.

Power to act a trustee for any public purpose

39. (1) A Municipal Council may at any time by resolution appoint an agent or agents outside Sri Lanka for the purpose of entering into contracts on its behalf with persons resident or carrying on business outside Sri Lanka, for the execution or performance of any work or service or for the supply of any articles or materials.

Power to appoint agents outside Sri Lanka.

(2) Any such appointment shall, until revoked by the Council, confer on the agent or agents appointed full authority to enter into any such contract on behalf of the Council when requested to do so by the Council.

40. (1) For the purpose of the discharge of its duties under this Ordinance, a Municipal Council (without prejudice to any other powers specially conferred upon it) shall have the following powers :—

General powers.

- (a) to create all such posts or offices as it may deem necessary;
- (b) to assign to any post or office in the service of the Council, other than a post in the Local Government Service, such salary, allowances or remuneration as the Council may think fit;
- (c) to make appointments to posts or offices referred to in paragraph (b);
- (d) subject to the express provisions of this Ordinance, to remove any officer or servant of the Council, other than a member of the Local Government service;

* New sections 37A and 37e have been introduced in the course of the revision and are based on sections 7, 8 and 9 of the Naming of Streets and the Control of the Erection of Monuments Law, No. 4 of 1975.

- **(e)* save as otherwise provided in subsection (3), to abolish any post or office in the service of the Council, whether or not such post or office is a post in the Local Government Service;
- (f)* to sell by public auction or, with the prior approval in writing of the Minister, to sell otherwise than by public auction, or to lease, either in block or in parcels—
 - (i)* any land or building vested in the Council by virtue of section 35 or section 37 if the prior sanction of the President has been obtained by the Council, and
 - (ii)* any other land or building of the Council, subject to the terms and conditions of the instrument by which the land or building was vested in or transferred to the Council, unless the sale or lease is prohibited by such instrument;
- (g)* subject to the express provisions of this Ordinance, to enter into any contract with any person for any work to be done, or services to be rendered, or goods or materials to be supplied ;
- (h)* to grant, with the prior approval of the Minister, to any person, firm, company or corporation for any purpose, a licence or concession, whether exclusive or otherwise, for any period or for any consideration, subject to such terms and conditions as to the Council may seem fit;
- (i)* to make by its officers authorized in that behalf and the servants or workmen accompanying them all such entries into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisances, the detection, prevention, and abatement of all contraventions of this Ordinance or of by-laws, rules or regulations made thereunder, or for the performance of acts required to be done by or under this Ordinance in respect of which the owner or occupier of such premises is, or may be deemed to be, in default;
- (j)* by its Mayor or other officer authorized by him, to hold all inquiries which the Mayor may deem necessary for any of the purposes of this Ordinance, and for the purpose of all such inquiries, to administer oaths and summon witnesses;
- (k)* to institute or defend any legal proceedings which the Council may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Council or of the public or of protecting its officers or members in the execution or intended execution of their duties ;
- (l)* to deal with any budget or supplementary budget in the manner hereinafter provided ;
- (m)* to consider recommendations from the standing committees, to reduce or increase the amount of expenditure, or to transfer the moneys assigned under one head of expenditure in the budget to another head;
- (n)* to consider the annual administration report, and append such observations thereto as the Council thinks fit, prior to its submission to the Minister;
- (o)* to approve the raising of loans for works or public services to be undertaken under the provisions of this Ordinance, or for the acquisition of any land or buildings required for the purposes of or in

* Vide also section 19 (2) of the Local Government Service Law.

- connexion with any such work or public service or any machinery, plant or equipment required for the purposes of any such public service;
- (p) to consider the periodical statements of receipts and disbursements hereinafter provided for, and progress reports of work done, and to pass such resolutions thereon as the Council thinks fit;
 - (q) to call the attention of the Mayor to any neglect in the execution of Municipal work, to any waste of Municipal property, the wants of any locality as noticed personally by any Councillor or made known to him by the inhabitants, and to suggest any improvements which appear desirable;
 - (r) to bring forward general questions connected with the Municipal Fund, or any new measures relating to purposes authorized by this Ordinance;
 - (s) to sanction the appropriation of Municipal land, or the acquisition of land for the purposes of this Ordinance;
 - (t) to purchase any land or other immovable property which may be sold in execution of any judicial decree or order obtained by the Council against any person whomsoever, and to resell the same;
 - (u) to establish and maintain any of the following public services :—
 - (i) water supply;
 - (ii) the lighting of streets, public places and public buildings;
 - (iii) the supply of electric light or power;
 - (iv) markets;
 - (v) public baths, bathing places, laundries and places for washing animals;
 - (vi) any other form of public service, subject to such prohibition or restriction of the establishment and maintenance of that service as may be imposed by any other law;
 - (v) to make, repeal, alter, or amend by-laws for the purposes of this Ordinance;
 - (w) generally to do all things necessary for the effective exercise and performance of the powers and duties of the Council.
- (2) The proceeds of any sale or lease by a Municipal Council under subsection (1) shall be paid into the Municipal Fund.
- (3) Nothing in subsection (1) (e) shall be deemed or construed to empower the Municipal Council to abolish the office of Mayor, Deputy Mayor, Municipal Commissioner or Municipal Magistrate.
- 41.** None of the provisions of the Prevention of Frauds Ordinance shall apply to any sale, lease, mortgage, release or other agreement or contract affecting immovable property to which a Municipal Council is a party. Prevention of Frauds Ordinance not to apply.
- 42.** (1) Whenever it appears to a Municipal Council that an examination or survey of any private lands, buildings, or premises is necessary for any Municipal purpose, it shall be lawful for the Council to direct any officer or servant of the Council to make such survey, and it shall thereupon be lawful for such officer or servant and his workmen to enter upon such premises and to do thereon any of the following acts :— Power to authorize surveys, &c.
- (a) to survey and take levels of such land;
 - (b) to dig or bore into the subsoil;
 - (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

- (d) to set out the boundaries of any land to be acquired, or street lines, or the lines of any work proposed to be carried out;
- (e) to mark such levels, boundaries, or lines by placing permanent marks on existing buildings, trees, posts, walls, fences, or other fixed objects, or by fixing new marks, or by cutting trenches, as the case may require; and
- (f) where otherwise a survey cannot be completed, or levels taken, or the boundaries and lines marked, to cut down and clear away obstructions interfering with the execution of such work:

Provided that full compensation shall be paid for any damage done ;

And provided further, that no person shall enter any building or any enclosure attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier, at least three days' notice of his intention to do so.

(2) Every mark fixed under paragraph (e) of subsection (1) shall be deemed to be the property of the Council.

42A. (1) The Mayor of a Municipal Council may cause a written notice to be served on the occupier of any unauthorized building directing such occupier to demolish that building.

(2) Where a notice served under subsection (1) on the occupier of an unauthorized building is not complied with within fourteen days reckoned from the date of such service, the Mayor may cause that building to be demolished ; and any person or persons acting under the authority of the Mayor may enter the land on which such building is situated and do all such acts as may be necessary for the purpose of such demolition.

(3) The provisions of section 68 shall, *mutatis mutandis*, apply in the case of any building demolished under subsection (2) in like manner and to the same extent as they

apply in the case of any building pulled down under section 67.

(4) No action or other proceeding shall lie against any person for any act done in the exercise of the powers conferred by subsection (2), and no person shall be entitled to any compensation for any damage or loss caused by such act.

(5) In this section, the expression "unauthorized building" means any building situated within the administrative limits of a Municipal Council and erected on any land belonging to or vested in the State or that Council without prior permission given by or on behalf of the State, or that Council, as the case may be.

43. (1) Every Municipal Council shall establish and maintain an office within the Municipality for the transaction of business. Such office shall be called the " Municipal Office ".

Municipal office.

(2) There shall be kept at the Municipal office during all hours of business a box for the reception of petitions, and a book for the registry of such petitions and of the orders passed thereon, after inquiry and report by the proper officer.

44. A Municipal Council may acquire lands or buildings for the general purposes of the Council without indicating the purposes for which any land or building is to be applied.

Acquisition of lands or buildings for general public purposes.

45. Any land or building required for the purposes of a Municipal Council may be acquired under the Land Acquisition Act by the Government for the Council.

Compulsory acquisition of lands and buildings.

46. Every Municipal Council shall, within the Municipality, have the following duties:—

General duties of Council.

- (a) to maintain and cleanse all public streets and open spaces vested in the Council or committed to its management;
- (b) to enforce the proper maintenance, cleanliness and repair of all private streets;

Demolition of unauthorized buildings. [§ 2, 15 of 1957.]

- (c) to supervise and provide for the growth and development of the Municipality by the planning and widening of streets, the reservation of open spaces, and the execution of public improvements;
- (d) to abate all nuisances;
- (e) to establish and maintain (subject to the extent of its resources) any public utility service which it is authorized to maintain under this Ordinance and which is required for the welfare, comfort or convenience of the public;
- (f) generally to promote the public health, welfare and convenience, and the development, sanitation and amenities of the Municipality.

for such Council to make an agreement with the owner for the compensation to be paid for such land, and for any building, boundary wall, gateway, fence or tree standing thereon, either by allowing him to possess the ground, or part of the ground, of the former street or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(2) Any land of which possession is taken by a Municipal Council in pursuance of any agreement under subsection (1) shall vest in the Council without any formal transfer thereof, and the certificate of the Mayor of the Council that any person has been allowed by the Council to possess any part of the ground of any former street or any land given in exchange under subsection (1), together with a survey thereof, shall be a sufficient proof of the right of such person to such ground or land.

PART V

POWERS AND DUTIES AS TO STREETS

STREETS

Power to construct new, and improve existing streets.

47. Subject to the provisions of this Ordinance, a Municipal Council may—

- (a) lay out and construct new streets, bridges or tunnels;
- (b) widen, open, enlarge or otherwise improve, or turn, divert, discontinue, or stop up, whether in whole or in part, any street to which the Thoroughfares Ordinance does not apply and, with the sanction of the Minister charged with the subject of thoroughfares, any other street,

making due compensation to the owners or occupiers of any property required for such purposes, or any person whose legal rights are thereby infringed.

Acquisition of lands required for diversions or enlargements.

48. (1) If in connexion with the laying out, turning, diversion, widening, opening, enlargement, or improvement of any street, it becomes necessary for any Municipal Council to take possession, for public use, of the land of any person, it shall be lawful

(3) Where a Municipal Council cannot agree with the owner of any land as to the compensation to be made under subsection (1), or where such owner cannot be found, or where the Council does not deem it advisable to enter into any agreement with the owner of any land, then proceedings may be taken to obtain possession of such land, and for compensating the owner, in the manner prescribed by section 45.

(4) Every agreement under subsection (1) shall be in writing, but section 2 of the Prevention of Frauds Ordinance shall not apply to any such agreement or to any certificate issued under subsection (2).

49. If in connexion with the laying out, turning, diversion, widening, opening, enlargement or improvement of any street, it becomes necessary for any Municipal Council to take possession of the land of any person for public use, and if the person claiming to be the owner of the land desires to make a free gift of the land to the Council for such purpose and to renounce all claim to compensation therefor, a record in writing to that effect duly signed by such person in the presence of the Mayor or of a person authorized by the Mayor in writing in that behalf shall be sufficient to vest the land in the Council. No such record shall be

Gifts of land required for diversion or enlargement of street.

deemed to be invalid or of no effect in law by reason only that the requirements of section 2 of the Prevention of Frauds Ordinance have not been complied with as to attestation by a notary public and by witnesses.

Power to dispose of discontinued street.

50. Whenever any street or any part of any street vested in a Municipal Council ceases to be used as a street, the Council, with the prior approval of the President, may sell, lease, or exchange such street or part thereof, and in the event of such sale or lease, the proceeds thereof shall be paid into the Municipal Fund.

Power to take land adjoining new street for building purposes.

51. In laying out or constructing any new street, or in turning, diverting, widening, opening, enlarging, or otherwise improving any street, a Municipal Council may, in addition to the land required for the purposes of the carriageways and footways thereof, also purchase the land necessary for houses and buildings to form the said street, and may sell, lease, or otherwise dispose of the same, subject to the provisions of paragraph (/) of subsection (1) of section 40 and subject to such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as the Council may think fit.

Proper officers empowered to enter upon lands for repair, &c., of streets.

52. It shall be lawful for the proper officer of any Municipal Council and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper carriages, carts, animals and other means, to enter upon any land adjacent or near to any existing or intended street within the Municipality, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such street, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter or thing under the provisions of this Ordinance, or any by-law, rule or regulation made thereunder.

Power to take materials.

53. It shall be lawful for the proper officer of any Municipal Council and for the servants, workmen, and labourers employed

by or under him, at all reasonable times, and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended street in the Municipality; or of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith; or for the construction or repair of any lines or any buildings whatsoever required on or near any such street for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such street, and to carry away the same through the land of any person, without being deemed a trespasser:

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn or any inclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common or abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure them;

Provided also that reasonable compensation for all materials so taken, and for the damage done in taking and carrying away the materials, shall be made to the owner thereof;

Provided, further, that such officer shall rail or fence off any quarry or pit from which any such materials may be taken, so that it may not be dangerous to any person or animal.

54. It shall be lawful for the proper officer of any Municipal Council when tracing, measuring, making, working, opening, altering, turning, repairing,

Power to erect buildings and keep cattle, &c.

clearing, or improving any existing or intended street within the Municipality, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith—

- (a) to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and
- (b) to keep all such animals as may be employed by him duly tethered and stabled upon any lands near or adjacent thereto, and to continue so to keep the animals on such lands for such time as may be necessary;

Provided that no such building shall be erected, nor any such animal kept on any land which is under cultivation or is situated in any area where there are neighbouring waste lands or common or abandoned grounds available for the purpose;

Provided, further, that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

Power to throw rubbish upon adjacent lands.

55. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving of any existing or intended street within any Municipality, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall be lawful for the proper officer of the Municipal Council to throw upon any lands adjacent or near to the street such earth, rubbish, or materials as it may be necessary to remove from the place of any such work.

Power to make temporary road.

56. It shall be lawful for the proper officer of any Municipal Council to make a temporary road through the grounds adjacent or near to any existing or intended

street in the Municipality during the execution of any work thereupon or any work in any way connected therewith :

Provided that such road shall not be made over any ground whereon any building stands or over an inclosed garden or yard.

57. It shall be lawful for the proper officer of any Municipal Council to cut and remove, and place upon any adjacent or neighbouring land, all trees, bushes, or shrubs, and all leaves or branches or roots of trees that shall grow in or overhang any street within the Municipality, or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots.

Power to cut trees.

58. It shall be lawful for the proper officer of any Municipal Council to put up or make fences, hedges, ditches, drains, or banks by the side of any street within the Municipality, whenever to him it shall appear necessary, and the owner or occupier of each land adjoining such fences, hedges, ditches, drains, or banks shall and he is hereby required to keep them in good and substantial repair and order.

Power to put up fences.

59. The proper officer of any Municipal Council shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses along any street within the Municipality, and also to make and lay such drains, watercourses, trunks, tunnels, plats, or bridges, as he may deem necessary for the protection, preservation, improvement, repair, or construction of any street or intended street, in and through any lands or grounds adjoining or lying near to such street or intended street.

Power to make and keep open ditches, &c., and to lay trunks, &c.

60. The proper officer of any Municipal Council shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any street within the Municipality, and to allow such matter to remain there during the time such street is under repair, and for such time before the repairs are commenced and after

Power to lay stones, &c.

the repairs are completed, as may be necessary for facilitating the making of such repairs or for preventing damage to such recently repaired streets, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such street.

within such time as may be specified in the notice or with due diligence;

Power to construct and maintain tramways.

61. Any Municipal Council, with the sanction of the Minister, may, by its own officers and servants, construct, maintain, and use, a tramway or tramways within the Municipality.

(3) to shut up and secure deserted houses;

(4) to recover in manner hereinafter provided the expenses incurred by any action taken under paragraphs (2) and (3) hereof from the person whose act or neglect shall have rendered such action necessary.

Power to enter into contracts for tramways.

62. A Municipal Council, with the sanction of the Minister, may enter into any agreement or contract with any person, corporation or company for the purpose of granting to such person, corporation, or company, the right to construct, maintain, and use a tramway or tramways within the Municipality, upon the terms, for the consideration, and subject to the conditions and in the manner mentioned, in such agreement or contract.

65. A Municipal Council may, at the request of the owner or owners of any one or more estates or industrial enterprises situated within the Municipality, in any case in which the Council is of opinion that the public interests would not otherwise justify the construction or maintenance of a road in such a locality, contract with such owner or owners for the construction or maintenance of a road for the service of the estate or estates, or the enterprise or enterprises in question, subject to the payment of such contribution towards the expenses of such construction or maintenance as may be approved by the Council and subject to the condition that by an appropriate instrument such road is constituted a public road and is vested in the Council, and all such agreed contributions shall be deemed to be special rates imposed upon the lands benefited, and shall be recoverable in the same manner as a rate imposed under this Ordinance, and all the provisions of this Ordinance relating to rates shall apply thereto.

Roads for benefit of individual property owners.

Public vehicular communications.

63. A Municipal Council may organize and maintain, either by itself and its own officers, or by agreement with any promoter or promoters in the manner prescribed by section 62, any form of public vehicular communication other than a tramway for the service of the inhabitants of any area within the administrative limits of the Council, subject to such prohibition or restriction of the organization and maintenance of that form of communication as may be imposed by any other law.

Other powers of a Municipal Council.

64. It shall be lawful for a Municipal Council, without prejudice to any other powers vested in it, to do any of the following acts:—

- (1) to water the streets;
- (2) to remove projections, encroachments and obstructions in or upon any street subject to the conditions that where the person responsible therefor is known to the Council, such action shall be taken by the Council, only after notice has been given to him, and he fails to remove such projections or encroachments or obstructions

66. If any house, building, boundary wall or gateway adjoining any street in any Municipality, or anything affixed thereon, be deemed by the Council to be in a ruinous state, whether dangerous or not, or to be likely to fall, the Council shall immediately, if it appears to be necessary, cause a proper hoarding or fence to be put up for the protection of persons using such street, and shall cause notice in writing to be served on the owner or occupier forthwith to take down, secure, or repair such house, building, boundary wall, gateway or thing fixed thereon, as the case may require.

Houses in a ruinous and dangerous state.

Failure to comply with notice.

67. If any person, on whom a notice is served by or on behalf of the Council under section 66, does not begin to comply with such notice within three days of the service thereof or does not complete the work with due diligence, the Council shall cause all or so much of the work as it may deem necessary to be carried out, and all the expenses thereby incurred shall be paid by such person, and, in case of default, shall be recoverable as hereinafter provided.

taken down, burned down or has fallen down, the Council may require such building or part, when being rebuilt, to be set back to the street line, and the portion of land added to the street by so setting back the building shall thenceforth be deemed to be part of the street and be vested in the Council:

Sate of materials of ruinous houses.

68. If any house, building, or wall, or any part thereof be pulled down by or under the authority of the Council under section 67, the Council may sell the materials thereof, or so much of the materials as may have been taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, pay any surplus arising from such sale to the owner of such house, building, or wall:

Provided always that the Council shall make full compensation to the owner of any such building for any damage he may thereby sustain.

71. (I) The Minister shall, either by his own motion or on application made in that behalf by a Municipal Council, determine the name by which any street shall be known and in like manner at any time alter the name of any street.

Naming of sireets and numbering of houses. [§ 3. Law 4 of 1975.]

Provided always that, in case no demand for such surplus is made within twelve months by any person entitled to make such demand, the Council shall be at liberty to pay the amount of such surplus to the credit of the Municipal Fund, and shall be freed from any liability to pay or answer for or in respect of such unclaimed surplus;

* (3) The Council shall determine the number by which any house or tenement shall be distinguished and may alter such number, from time to time, as occasion may require.

(4) It shall be lawful for the Council to paint or otherwise mark or exhibit the name of any street or the number of any house or tenement on any private property and, from time to time, to alter or renew such inscription of the name or the number, as the case may be, whenever such name or number is altered or the inscription becomes illegible.

Street lines.

69. A Municipal Council may, from time to time, cause plans to be prepared showing by means of lines the limits by which any street or proposed street should, in the opinion of the Council, be bounded. When any such plan has been approved by the Council, the lines therein indicated shall, for the purposes of section 70, be taken to be the street lines of such street.

(5) Any person who, without the authority of the Council, destroys, pulls down, defaces or alters any inscription of the name of any street or the number of any house or tenement which has been lawfully set up by the Council or sets up in any street any name different from the name lawfully given to such street or sets up in any house or tenement any number other than the number lawfully given to such house or tenement, shall be guilty of an offence.

Setting back houses to street lines

70. Where any building which, or any part of which, projects beyond the street line has either entirely or in greater part been

(6) For the purposes of this section and of section 188 (I) (d), the word "street" includes any road, footway, or passage used or intended to be used as a means of access to two or more houses or sites of houses

* Subsection 2 is repealed by Law No. 4 of 1975.

whether the public have a right of way thereover or not, and any side-walk, and reservation at the site thereof.

respecting the name and residence of the alleged owner upon being requested so to do by the Council; or

Doors, &c., not to open outwards.

72. (1) All doors, gates, bars, and ground floor windows put up on or after the 1st day of January, 1897, which open upon any street, shall be hung or placed so as not to open outwards, except when the same are hung or placed in such manner as may be approved by the Council.

(b) where the alleged owner of any premises refuses to produce within ten days, after being requested so to do, every deed, document, and instrument upon which he founds his claim to the premises and which is in his possession ; or

(2) If (except as aforesaid) any such door, gate, bar, or window is hung or placed so as to open outwards on any such street, the owner of the premises to which the same is attached shall, within eight days after notice from the Council to that effect, cause the same to be altered so as not to open outwards; and in case the owner fails or neglects to do so, the Council may cause such alteration to be made, and the expenses incurred thereby shall be paid by such owner, and, in case of default, shall be recoverable as hereinafter provided.

(c) where the alleged owner of any premises, not being in possession of any such deed, document, or instrument, refuses to give full information to the Council, upon being requested so to do, of the name and residence of the person in whose possession they are ; or

(3) If any door, gate, bar, or ground floor window put up before the date specified in subsection (1) is hung or placed so as to open outwards upon any street, the Council may, at its own cost, alter the same so that no part thereof when open projects over any such street so as to cause an obstruction.

(d) where any person having in his possession any such deed, document, or instrument refuses to produce it within ten days after having been requested so to do in writing by the Council,

every such occupier, alleged owner, or person so refusing shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

OBSTRUCTION TO STREETS

Power to demand production of title deeds.

73. (1) Whenever it appears to a Municipal Council that any building, inclosure or obstruction has been raised or made in any street under the control of the Council, or on any waste or other land immediately adjoining such street and belonging to the State, it shall be lawful for the Council by written notice served on the person claiming to be the owner of the premises on which such building, inclosure, or obstruction has been raised or made, to demand the production of every deed, document, and instrument upon which such person founds such claim.

74. (1) Every deed, document, or instrument the production of which is demanded by the Council under section 73 shall be produced on the premises to which it relates, or at such other place as the Council may require; and the power given by that section to demand the production thereof, shall be deemed to include the power to make such examination and copies of such deeds, documents, and instruments as may be necessary.

Demand of production of deeds to include power of examination.

(2) In any of the following cases, that is to say:—

(2) Every person refusing or failing to permit the Council or any person authorized by the Council to examine any deed, document, or instrument or to take copies thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

(a) where the occupier of any premises, not being himself the alleged owner, refuses to give full information

Power to make survey of premises.

75. In any case referred to in section 73 (1), it shall be lawful for any person authorized in that behalf by the Council to make such survey of the premises, on which the building, inclosure, or obstruction has been raised or made, as may be necessary to enable the Council to ascertain whether an encroachment has been made thereby upon any street or on any State land adjoining a street, and for the purposes of such survey, to enter upon such premises and upon any other premises whatsoever which it may in his opinion be necessary to enter.

Proof of right to apparent encroachment to rest upon the owner.

76. (1) Whenever it appears to the Council that the line of any street under the control of the Council has been altered without proper authority, or has been stopped up, or obstructed or encroached upon, the Council shall give notice in writing to the occupier of the land from off which the street is alleged or suspected to have been turned, or upon which such stoppage or obstruction or encroachment is alleged or suspected to have been made, that a survey of the premises has been made by or by the direction of the Council, and is open to the inspection of such occupier at a place to be mentioned in the notice, and that unless within one month from the service of the notice he, or the person under whom he holds, takes legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the Council will proceed with the removal thereof in manner provided by section 77.

(2) If no legal proceedings are taken within the time specified in subsection (1) or being taken are not duly prosecuted, it shall be the duty of the Council to cause any such obstruction or encroachment to be forthwith removed as provided by section 77.

(3) Where legal proceedings are taken, it shall be incumbent on the party claiming to be the owner of the land from off which the line of any street is alleged to have been altered or turned, or upon which the stoppage or obstruction or encroachment is alleged to have been made, to prove his title to such land.

Removal of obstructions or encroachments.

77. (1) It shall be lawful for the Council, through any person authorized by the Council in that behalf, to give order verbally or by notice in writing, to any person obstructing or encroaching upon any street under control of the Council, forthwith to remove or abate the obstruction or encroachment; and if any person to whom such order is given refuses or neglects to comply therewith within a reasonable time, or, if there be any doubt as to who is the proper person to whom such order should be given, after such notice has been fixed for a reasonable time to such obstruction or encroachment, it shall be lawful for the Council to cause any such obstruction or encroachment to be forthwith removed or abated.

(2) For the purpose of removing or abating any obstruction or encroachment under subsection (1), it shall be lawful for the Council or any person authorized by the Council to enter any house, garden, inclosure or other premises, together with such persons and with such implements and materials as may be necessary, and to proceed to do or take therein or cause to be done or taken all such acts or measures as may be necessary for such removal or abatement.

(3) The costs incurred in the removal or abatement of any obstruction or encroachment under this section by or under the authority of the Council shall be payable by the person whose failure to comply with the order under subsection (1) caused such costs to be incurred ; and such costs, where they are not paid by such person on demand, shall be certified by the Council to the Magistrate's Court having jurisdiction over the area where such person resides and shall be recovered by that court in like manner as a fine imposed by the court. All moneys so recovered shall be paid by the court into the Municipal Fund.

(4) Where the removal or abatement of any obstruction or encroachment is effected after the due production of all deeds, documents, and instruments affecting the title to such premises, and such premises are nevertheless adjudged to be the property of the party laying claim to the same, such party shall be entitled to compensation from

the Council for all loss and injury occasioned thereby; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents, and instruments, or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and the Council shall nevertheless have caused the removal of such building, inclosure, or encroachment, then, in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof, such party shall not be entitled to any compensation for any loss or injury occasioned thereby.

cause injury to the street or shall suffer any such animal to damage the street; or

(5) being the owner or occupier of any land contiguous to any street, suffers the passage through or into his land of the water from such street, or from any ditch or drain leading therefrom, to be obstructed, or suffers any water, filth, or other substance or thing to flow or run from such land or house into or upon any such street, or suffers any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water; or

INJURIES TO STREETS, &C.

Destroying milestone, bridge, &c.

78. Every person who—

- (1) wilfully or negligently destroys, pulls up, defaces, throws down, breaks, or injures any milestone, mile-post, demarcation stone, demarcation post, lamp-post, or direction post, or any bridge, culvert, parapet, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain, or fence belonging to any street or erected at or near any pit or quarry opened or used for getting road materials ; or
- (2) wilfully and unnecessarily removes any fence, post, stone, log, or other thing laid or erected by the direction of any competent authority on or in any street, for the temporary prevention of the use thereof, or for preventing danger or injury to persons passing along the same whilst undergoing repair ; or
- (3) without the permission of a competent authority, gathers or heaps up, or takes away, any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any street; or
- (4) leads or drives any elephant, ox, horse, pig, or other animal or any vehicle from or off or on or into any street in such manner as to

(6) without the previous consent of the Council, by any act on his land interferes with the free passage of water along or from any drain or culvert of any street; or

(7) hauls or draws upon any street any timber, stone, or other thing otherwise than upon a wheeled carriage, or suffers any timber, stone, or other thing carried principally or in part upon a wheeled carriage to drag or trail upon such street to the damage thereof; or

(8) makes or causes to be made any dam, ditch, drain, or watercourse upon or across, or otherwise breaks up, or injures, the surface of any street; or

(9) erects, sets up, lays down, or constructs, either permanently or temporarily in, along, under, or over any street, any post, pillar, lamp, wire, pipe, rails, or other plant, material, or works, without the permission of the Council, or otherwise than in accordance with the terms and conditions of such permission; or

(10) attaches additions to his house so as to project over the outer edge of the side drain of any street, or by means of temporary supports or

otherwise exposes goods or wares of any description over any portion of a street or its side drain, or by causing carts to be loaded or unloaded in front of his dwelling in any way injures the side drain,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees, and, in case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which such offence is continued after a conviction thereof.

Using new street for certain time after making.

79. Upon the construction of a new street or upon the execution of any repair to any existing street under the control of a Municipal Council, it shall be lawful for the Council, by notice exhibited upon or so as to be visible from the street, to prohibit the riding or driving of any animal or vehicle on the street for a specified period not exceeding one month after the completion of the work of construction or repair; and every person doing any act in contravention of such notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

Owner or occupier bound to have a bridge, &c., over drain leading to his house.

80. If the owner or occupier of any house or premises adjoining any street, by the side of which a drain has been made or excavated, requires means of access to such house or premises from such street, he shall be bound to place over the drain, to the satisfaction of the Council, a bridge, platform, or arch, which shall in no case cover less than three feet of the length of such drain; and it shall be lawful for the Council on being satisfied that any person has access from such street to any house or premises so situated and that such bridge, platform, or arch should be provided, to call upon the owner or occupant of the house or premises forthwith to construct such bridge, platform or arch, and if he fails to do so within a reasonable time, to cause the work to be done, and to recover the cost thereof in the manner provided in section 77 for the recovery of the costs therein mentioned.

Allowing trees to grow in such a way as to injure streets.

81. Any person who allows any tree, upon any premises of which he is the owner or of which he is in occupation, to grow in such a way as to cause injury to any street,

after the service of a notice upon him by the Council calling upon him to take the necessary measures to abate such injury, and after the expiration of such reasonable time as may be specified in the notice for the purpose, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees, and in any such case the Magistrate before whom the offender is convicted may, in default of the necessary measures being taken by the offender, direct that such measures shall be taken by the Council, and that the costs thereof shall be recovered in the manner provided in section 77 for the recovery of the costs therein mentioned.

82. (1) It shall be the duty of every person who proposes to undertake any such operations for clearing, draining, or opening up any land in the vicinity of any street as are likely to cause injury to the street, or to impair the condition thereof by reason of any outflow or increased outflow of water or silt—

Damage to street through clearing, draining or opening up neighbouring land-

- (a) to give notice in writing to the Council of his proposed operations; and
- (b) in addition to such measures as may be taken by the Council to take at his own expense all such measures as may be reasonably necessary to prevent such injury to or such impairment of the condition of such street.

(2) Any person who undertakes any of the operations referred to in subsection (1) without giving the notice required by that subsection, or who otherwise makes default in complying with the requirements thereof, shall be responsible for any damage occasioned by such operations and for any expenses incurred by the Council for the purpose of preventing or remedying any damage that may be occasioned or apprehended in consequence of such operations, and the amount of any such damage or expenses may be recovered in the manner provided in section 77 for the recovery of the costs therein mentioned.

NUISANCES ON STREETS, &c.

Offences.

83. (1) Every person who, within a Municipality, turns loose or suffers to be turned loose any elephant, ox, buffalo, horse, sheep, goat, or other animal on to or into any street, or so that it makes its way on to or into any street, or ties or tethers or suffers to be tied or tethered any animal of any description in any manner which permits it to make its way on to or into any street, unless such animal is so tied or tethered during the time required for loading or unloading it, or for the loading or unloading of any cart or boat to which it may belong, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees;

Provided that where any such animal is found on or in any street or tied or tethered in such a way that it can make its way on to or into any street such animal shall be deemed to have been turned loose or suffered to be turned loose or to have been tied or tethered, or suffered to be tied or tethered, as the case may be, by the owner thereof unless he satisfies the court to the contrary.

(2) The owner of any pig found tied, straying, burrowing, or wallowing in any street or canal within a Municipality shall be guilty of an offence any shall be liable on conviction to a fine not exceeding fifty rupees; and it shall be lawful for any person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any such street or canal; and such person may, if he choose, take such pig to any peace or police officer of the area in which the offence was committed and such officer shall forthwith sell the pig and pay the proceeds of such sale to such person.

(3) Every person who, within a Municipality—

(a) hangs up or otherwise exposes any mats, clothes, or any substances of any nature whatever on or at the side of any street in a manner calculated to obstruct the use of the street;

(b) leaves or permits to be left, on any street any cart or other carriage, without the oxen, horses, or other animal being yoked or harnessed thereto, unless such cart or carriage has accidentally broken down there, and, in case of such accident, for a longer time than may be necessary for its removal;

(c) suffers any vehicle to remain in any street between a quarter of an hour after sunset and a quarter of an hour before sunrise without having attached thereto the lights required by the Vehicles Ordinance or the Motor Traffic Act;

(d) leaves any boat or raft in any canal in such a way as to obstruct the use of such canal;

(e) lays or throws any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scourings of any ditch or drain, or other article or thing, on or in any street, river, or canal, and allows such article or thing to remain there, except for such period as may be absolutely necessary for the removal thereof;

(f) leads or drives on any street any cart or other carriage with timber, boards, iron, or other goods so that either end of any such goods projects beyond the wheels or sides thereof;

(g) encroaches on any street by making or causing to be made any building, platform, bridge, ditch or fence, or other obstruction upon or in any street;

(h) after having blocked or stopped any cart or other carriage in going up or down any hill or rising ground, causes or suffers to be or to remain on any road the stone, timber, or other thing with which such cart or other carriage may have been blocked or stopped ; or

(f) in any manner wilfully prevents any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any street,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees, and, in case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which such offence is continued after a conviction thereof.

(4) Every person who, within a Municipality, places or continues any kraal or fence or any other obstruction in any canal or river so as to impede or in any way interfere with the convenient navigation thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees. It shall be lawful for the Council to cause any such kraal, fence or obstruction so placed or continued to be pulled up or otherwise destroyed, and to recover the costs thereof in the manner provided in section 77 for the recovery of the costs therein mentioned.

Seizure of stray cattle.

84. (1) It shall be lawful for any person authorized thereto by the Council to seize any ox, buffalo, horse, sheep, goat or pig which he may find tied, tethered, or straying on or about any street within the Municipality, unless such animal belongs to any cart or boat to which it is tied or tethered whilst the cart or boat is being loaded or unloaded, and to place every animal so seized in the pound established by the Council for the purpose.

(2) No animal seized under subsection (1) shall be delivered to the owner thereof unless upon payment of the sum of one rupee, or such other sum as the Council may by resolution fix, from time to time, for the use of the person by whom the animal may have been seized, and of a further sum of thirty cents, or such other sum as the Council may by resolution fix, from time to time, for each day during which the animal may have been kept in the pound.

(3) If no person claims any animal placed in the pound or pays the dues required by subsection (2) within ten days after the seizure of the animal, it shall be

lawful for the Council to sell it by public auction, and after payment of two rupees, or such other sum as the Council may by resolution fix, from time to time, to the person by whom the animal was seized and of a further sum of fifteen cents, or such other sum as the Council may by resolution fix, from time to time, for each day during which the animal may have been kept and maintained in the pound, to pay any balance of the proceeds of such sale into the Municipal Fund, and if such balance is not claimed and the payment thereof is not obtained by any person entitled thereto within a period of one year from the date of the sale, to pay such balance into the Municipal Fund.

(4) The provisions of this section shall have effect in every Municipality notwithstanding anything contained in the Animals Act.

85. Any person who removes any animal from the lawful custody of any person authorized to seize it under section 84, or under subsection (2) of section 83, or who in any way molests or obstructs such person in the exercise or discharge of his powers or duties shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

Interference with cattle seizers or pig seizers.

SPECIAL USER OF STREETS

86. Any Municipal Council may, from time to time, and either independently or in combination with any other Municipal Council, subject to the terms of any special enactment in that behalf, enter into agreement with any person or body of persons or any local authority constituted by law (hereinafter referred to as "the promoters"), to authorize such promoters, for the purpose of any system of tramways, of any supply of gas, electrical energy, water, or other public service, or any private enterprise or object, to make such user of streets under the control of a Council, and to execute all such works and to set up or to maintain all such erections or plant thereon or therein as may in the opinion of the Council be necessary for the purpose of the effective establishment or maintenance or the modification or development of such public service or such enterprise or object.

Power of Council to authorize the user of streets for special purposes.

Rules.

87. (1) For the purpose of any agreement referred to in section 86, and for the purpose of securing the observance of the respective rights and obligations of the public, the Municipal Council and the promoters in connexion with any public service or any private enterprise or object to which the agreement relates, the Council (except in so far as provision is made by any special enactment in that behalf) may make rules—

- (a) authorizing the promoters and their agents, servants or workmen, or the agents, servants, or workmen of the Council subject to such conditions as may be prescribed in the rules—
 - (i) to break up the soil, metal, and pavement of any street vested in the Council;
 - (ii) to open and break up any sewers, drains, or tunnels within or under such streets;
 - (iii) to erect, set up, or lay down, either permanently or temporarily in, along, under, or over such street, any post, pillar, lamp, wire, pipe, rails or other plants, material, or works;
 - (iv) to alter the position of any public line, wire, or other apparatus or plant in or about such street for the purpose of any other public service;
- (b) requiring the promoters to do as little damage as may be in the execution of the powers granted by the said rules, and to make any compensation for any damage which may be done in the execution of such powers;
- (c) requiring the promoters to complete any work which they may be authorized to execute under such rules with all convenient speed, and to reconstruct, repair or restore any street, sewer, drain, tunnel, or any

plant or apparatus which they may be authorized to remove, alter or to interfere with in pursuance of such rules;

- (d) requiring the promoters to remove and carry away all rubbish occasioned by their operations, and to cause proper precaution to be taken for the safety of the public in connexion therewith;
- (c) prohibiting any interference with or obstructions to any operations authorized by any rule under this section.

(2) No rule under this section shall authorize or empower any entry to be made, any material or plant to be erected or deposited, or any work to be executed upon any building or land which is not vested in the Council, without the consent of the owners and occupiers thereof first had and obtained.

(3) Any rule made by a Municipal Council under this section may, from time to time, be amended, varied or rescinded by the Council.

88. (1) Where it appears to any Municipal Council that, having regard to the average expense of maintaining streets in the neighbourhood, extraordinary expenses have been incurred by the Council in maintaining any street of which it has control, by reason of the damage caused or likely to be caused by the carriage of any excessive weight or the passing of extraordinary traffic thereon, the Council shall be entitled to recover from any person by whose order or in consequence of whose order, such weight or traffic was carried or caused, the amount of such expenses as may be proved to the satisfaction of a competent court to have been incurred by the Council by reason of the damage arising or likely to arise from such excessive weight or extraordinary traffic, or, where more than one person is responsible for such excessive weight or extraordinary traffic, may recover from each of such persons such proportion of the amount of the expenses so incurred as in the opinion of the court may fairly be assigned to him.

Expenses caused by extraordinary traffic

(2) Any person against whom expenses are or may be recoverable by a Municipal Council under this section may enter into agreement with the Council for making payment to the Council by way of composition in respect of such weight or traffic and, where payment is made in accordance with such agreement, no proceedings under this section shall be instituted or maintained against such person,

(3) Proceedings for the recovery of any expenses under this section shall be commenced within twelve months from the time at which such expenses were incurred, or where any expenses incurred are the consequence of any particular contract or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.

(4) All sums paid to, or recovered by, the Council under this section shall be paid by the Council into the Municipal Fund.

POWERS, DUTIES, AND RESPONSIBILITIES OF OFFICERS, &c.

Powers conferred on officers in charge of public works by whom to be exercised.

89. In respect of all streets within the limits of a Municipality, the Mayor of the Council and all persons authorized in writing by him in that behalf, shall and may by themselves, their servants, workmen, and labourers, exercise the several powers and authorities conferred by this Part on officers in charge of works to which this Part is applicable.

Survey by proper officer to be conclusive evidence.

90. If any plan or survey made by or by the direction of a Municipal Council or the Mayor of the Council or any authority of which the Council is a successor, is produced in evidence in any proceeding under this Part, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited thereof, in so far as the claim of the Council is concerned, unless the contrary is established by the party contesting such claim.

Compensation for injury to property by authorized officers.

91. Every person who sustains any loss or damage by reason of the exercise, by or by the authority of the Mayor of a Municipal Council, of any of the powers or authorities conferred by this Part upon

officers in charge of works to which it is applicable, shall, (except where the loss or damage is incurred through the act, default or neglect of such person), be entitled to receive compensation for such loss or damage, if he makes application in that behalf to the Council at any time before the expiration of three months after the claim for compensation has arisen. Where any such person fails to make such application within the aforesaid period, his claim to compensation for the alleged loss or damage shall be disallowed, and he shall be barred from recovering such compensation.

92. Where, for any reason, the amount of any compensation payable under section 91 is not agreed upon between the Municipal Council and the claimant, such amount may be determined by two arbitrators of whom one shall be nominated by the Council and the other by the claimant. If the two arbitrators cannot agree, they shall appoint an umpire and the award of the arbitrators or the umpire, as the case may be, given in terms of the reference agreed to by the Council and the claimant, shall be final. Arbitration.

93. If any officer of a Municipal Council in charge of any work on any street or any person engaged upon any street in pursuance of any contract with any such Council, lays or causes to be laid any heap of stones, gravel, rubbish, or other matter whatsoever upon the street, and allows such heap to remain there at night to the danger or personal damage of any person passing along the street (all due and reasonable precautions not having been taken by him to prevent any such danger or damage), such officer or person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees. Officers and contractors leaving stones, &c., on streets at night.

94. Save as in section 93 provided, nothing contained in this Part shall render any officer of a Municipal Council in charge of any work on any street, or any contractor under the Council, liable to any prosecution or fine under this Part for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract. Road officer or road contractor not to be liable to a fine except in certain cases.

Police officers to enforce provisions of this Part.

95. It shall be the duty of all officers of the police force to aid and assist in the prevention of all offences against this Part within the areas in which they are appointed.

alteration of any drain, culvert, gutter or watercourse, any person is deprived of the lawful use thereof, the Council shall with due diligence provide an effective substitute therefor.

PART VI

POWERS AND DUTIES AS TO PUBLIC HEALTH

PUBLIC HEALTH

Municipal Council to be general public health authority.

96. Subject to the powers and responsibilities by law committed to any other authority, the Municipal Council of each Municipality shall be the general administrative authority for the purpose of promoting and securing the public health within the Municipality, and shall for that purpose be entitled to exercise all such powers as are vested in it by this Ordinance, the Nuisances Ordinance, the Housing and Town Improvement Ordinance, and any other written law for the time being in force in that behalf.

99. (1) The Council may cause such pipes and fittings as it may deem necessary for the proper ventilation of public drains to be fixed to the outside of any building.

Power to affix to buildings pipes for ventilation of drains.

(2) Such pipes and fittings shall be so constructed and fixed as to occasion the least possible inconvenience in the neighbourhood. The outlet of every such pipe shall be at least two feet above the eaves of the building to which it is affixed and at least ten feet distant from any window.

DRAINAGE

Government or Councils to make public drains.

97. The Government or any Municipal Council may, from time to time, cause to be made, altered, or extended such public main or other drains, sewers and watercourses as may appear to be necessary for the effectual draining of the Municipality, and, if necessary, the Government or the Council may carry them through, across, or under any street or any place laid out as or intended for a street, or any cellar or vault which is under any of the streets, and (after reasonable notice in writing in that behalf) into, through, or under any enclosed or other lands whatsoever, doing as little damage as may be and making full compensation for any damage done.

100. (1) Every Municipal Council shall cause all public drains, culverts, gutters, and watercourses to be so constructed, maintained, and kept as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of maintaining, flushing, trenching, and emptying the same, the Council may construct and place, either above or underground, such reservoirs, sluices, engines and other works as may be necessary.

Cleansing and emptying of drains.

(2) The Council may, with the sanction of the Minister, cause all or any of such drains, culverts, gutters, and watercourses to communicate with and be emptied into the sea or other fit place; or may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell or otherwise dispose of the said refuse for any agricultural or other purpose as may be deemed most expedient, but so that it shall not become a nuisance.

Duty of Council to repair, alter, and discontinue drains.

98. (1) Every Municipal Council shall maintain and, from time to time, repair and as it sees fit, enlarge, alter, arch over or otherwise improve all or any of the public drains, culverts, gutters, and watercourses, and may discontinue, close up, or destroy such of them as it may deem useless or unnecessary, but so that no nuisance is created by such act.

101. Whenever a Municipal Council has by a resolution determined that any natural watercourse, channel, lake, swamp or any part thereof into which rain water or drainage has theretofore discharged shall remain open for the reception of such rain water or drainage, any person who, after receiving a written notice of the resolution from the Council, fills up or permits to remain filled up any such watercourse,

Obstruction of discharge of rain water and drainage.

(2) Where, by reason of the discontinuance, closing up, destruction or

channel, lake or swamp in such a manner as to obstruct or interfere with the free flow of such rain water or drainage, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees and, in case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which the offence is continued after a conviction thereof:

Provided that—

- (a) such natural watercourse, channel, lake or swamp may be filled up if the owner thereof first provides such other channel or drain, as may, in the opinion of the Mayor, be sufficient and suitable for the reception and conveyance of such rain water or drainage ; and
- (b) the Council may contribute in part or in whole to the cost of providing such other channel or drain.

Obstruction of drains and water-courses.

102. Every person who fills up or otherwise obstructs or interferes with the free flow in, any public drain or watercourse (whether the same be within any private premises or not) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees, and, in case of a continuing offence, to an additional fine not exceeding ten rupees for each day during which the offence is continued after a conviction thereof.

Connection of drain with any public drain without authority.

103. (1) Every person who, without the written consent of the Council first obtained, connects or causes to be connected any drain directly or indirectly with any public drain or watercourse shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees, and, in the case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which the offence is continued after a conviction thereof.

(2) The Council may cause any drain which is connected with any such public drain or watercourse without its consent or otherwise than in accordance with the provisions of this Ordinance or of any

by-laws for the time being in force to be demolished, altered or otherwise brought into conformity with such provisions; and all the expenses incurred thereby shall be paid by the person who connected or caused such drain to be connected, and, in case of default, shall be recoverable as hereinafter provided.

104. (1) Every person who erects or constructs or causes to be erected or constructed any building or works over any public drain, culvert, gutter, or watercourse without the written consent of the Council first obtained shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees, and, in case of a continuing offence, to an additional fine not exceeding twenty-five rupees for each day during which the offence is continued after a conviction thereof.

Erection of building over public drains, &c.

(2) The Council may cause any building or work referred to in subsection (1) which is erected or constructed without its consent or otherwise than in accordance with the provisions of this Ordinance or of any by-laws for the time being in force to be demolished, altered or otherwise brought into conformity with such provisions; and the expenses thereby incurred shall be paid by the person who erected or constructed or caused the erection or construction of such building or work, and in case of default, shall be recoverable as hereinafter provided.

105. (1) All works connected with—

Construction, &c., of private drains.

- (a) the construction, fixing or alteration of any drain or drainage appliance ; or
- (b) the connection of any drain with any public drain,

shall be carried out either by an officer of the Council or by a person licensed in that behalf by the Council at the cost and charge of the owners of the premises drained, and in accordance with the provisions of this

Ordinance or of any by-laws for the time being in force:

therefrom in accordance with the provisions of this Ordinance and any by-laws for the time being in force.

Provided that the preceding provisions of this subsection shall not apply in the case of-

- (i) any public drain or any appliance connected therewith; or
- (ii) any drain situated solely on private premises and not being an underground drain or a drain connected to an underground drain.

(2) Every person who fails or neglects to provide such drains or appliances as aforesaid shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty rupees.

(2) Every person who, not being an officer of the Council or a person licensed by the Council, carries out any work referred to in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

107. (1) Where any premises are within one hundred feet of any public drain or other fit place into which drains may lawfully be discharged, the Council may, by notice in writing, served on the owner of such premises, require such owner within such time as may be specified in the notice, to provide and execute to the satisfaction of the Council, in accordance with any by-laws for the time being in force, all or any of the following works that the Council may deem necessary for the effectual drainage of such premises, that is to say:—

Drainage of premises within one hundred feet of public drains.

(3) Where any work referred to in subsection (1) is carried out by any person (other than an officer of the Council or a person licensed by the Council) or otherwise than in accordance with the provisions of this Ordinance or of any by-laws for the time being in force, the Council may cause such work to be demolished, altered or otherwise brought into conformity with such provisions and the expenses thereby incurred shall, except in any case where the work was carried out by an officer of the Council, be paid by the owner of the premises on which the work was carried out and, in case of default, shall be recoverable as hereinafter provided.

(a) to provide and construct such channels, drains, gullies, manholes, and appliances as may be necessary for the removal and discharge into such drain or other fit place of sullage, foul liquids and rain water;

(b) where a sufficient water supply is available, to provide and construct sufficient and suitable water-closets or additional water-closets and drains and other appliances in connection therewith, and to convert any earth closet, privy, cesspit, closet, or other latrine into a water-closet, or abolish any such earth closet, privy, cesspit, closet or other latrine;

(4) Any work carried out under the provisions of this section shall be open, at all reasonable times, to the inspection of the officers of the Council.

(c) to reconstruct, take up, and remove or fill up any existing drain or appliance (other than any drain or appliance that has been laid with the sanction of the Council for the drainage of such premises on the water carriage system) that may be, in the opinion of the Council, unnecessary or insanitary.

Drains in new buildings.

106. (1) Every person who erects or causes to be erected any new building, or rebuilds or causes to be rebuilt any building, shall cause such building to be provided with such drains and appliances as may in the opinion of the Council be necessary for the drainage of such building, and for the collection and removal of any sullage, foul liquids, rain water, or faecal matter

(2) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within

the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

Drainage of premises in other cases.

108. (1) In the case of any premises which are more than one hundred feet, but less than two hundred feet, from any public drain or other fit place into which drains may lawfully be discharged, the Council may, by notice in writing served on the owner of such premises, require such owner within such time as may be specified in the notice, to provide and execute, in accordance with any by-laws for the time being in force, all or any of the works referred to in section 107.

(2) If in the opinion of the Council there is no suitable public drain or other fit place into which drains may lawfully be discharged within a reasonable distance of such premises, the Council may, by notice in writing served on the owner of such premises require the said owner, within such time as may be specified in the said notice, to provide and execute such other works and undertake such other measures as may in the opinion of the Council be best or necessary for the proper collection and disposal of the sullage and foul liquids, and the removal of faecal matter from such premises.

(3) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) or subsection (2) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

Drainage in combination,

109. (1) Where it appears to the Council to be more economical or otherwise more advantageous that the drainage of a group of premises, whether contiguous or otherwise, should be undertaken as a whole rather than separately, the Council may cause to have drawn up a scheme for the drainage of such group of premises in accordance with the following provisions.

(2) In every such case the Council shall cause to be prepared—

- (a) plans showing the premises affected, and the nature and extent of the necessary works;

- (b) a schedule of the premises and the names of the owners thereof as far as can be ascertained ;

- (c) an estimate of the cost of the work that is, in the opinion of the Council, necessary for carrying such scheme into effect;

- (d) a provisional apportionment of such cost amongst the owners affected in such proportion as may seem to the Council to be most equitable having regard to the greater or less degree of benefit to be derived by the premises from any work so undertaken.

(3) The Council shall cause written notice in Sinhala, Tamil and English to be given to the owners of all the premises to be drained of the intention to cause the proposed works to be done in accordance with the provisions of this section, either by serving it upon them personally, or by leaving it at their respective residences or places of business, or by posting registered letters addressed to them at such residences or places of business.

(4) During one month from the date of service of such notice the above-mentioned particulars or certified copies thereof shall be kept deposited at the Municipal office and shall be open to inspection at all reasonable times.

(5) During the said month the owner of any such premises may, by written notice served on the Council, object to the proposals on any of the following grounds, that is to say ;—

- (a) that the proposed works are insufficient or unnecessary or are not required in pursuance of this Ordinance;
- (b) that the estimated cost of the work is excessive;
- (c) that the provisional apportionment of such cost is incorrect in some matter of fact to be specified in the objection;
- (d) that any premises should be excluded from or included in the proposals ;

(e) that there has been some material informality, defect, or error in respect of the notices, plans, or estimates;

(f) that any compensation to be paid is excessive or insufficient. .

(6) The Council shall consider and determine the objections, and its decisions thereon shall be final.

(7) In any case where no such objections have been raised or in any case where such objections have been raised and have been determined by the Council, the Council may give orders for the drainage of the premises in accordance with the scheme, and if it considers expedient may—

(a) proceed to execute, by contract or otherwise, all or any of the work necessary for carrying into effect the scheme mentioned in subsection (1) of this section ; or

(b) by notice in writing, require all or any of the owners to provide and execute, within such time as may be specified in the notice, all or any of the works that may be required to be done in or exclusively for the drainage of the premises.

(8) The Council may recover in equal proportions from the owners of all or any of the premises included in any scheme prepared under this section a reasonable sum as expenses for surveys and the preparation of plans.

(9) When the Council has completed the execution of any works under this section and the expenses thereof have been ascertained, a final apportionment shall be made in similar manner to the provisional apportionment, and the expenses recovered accordingly as herein provided.

(10) The cost of the maintenance of the system of drainage made under such scheme as aforesaid shall be borne equally by the owners of the premises affected by such scheme.

(11) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (7) (6) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

110. (1) When it appears to the Council that the only or the best practicable means by which a drain required for the drainage of any premises can be emptied into any drain or other fit place into which drains may lawfully be discharged is by carrying the same into, through, or under any land belonging to some person other than the owner of the said premises, the Council, after giving the owner of the said land a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to the Council invalid or insufficient, by an order in writing, authorize the owner of the said premises to carry his drain into, through, or under the said land in such manner as the Council shall think fit to allow.

Right to carry drains through land belonging to other persons.

(2) Every such order bearing the signature of the Mayor shall be complete authority to the person in, whose favour it is made, or to any agent or person employed by him for that purpose, after giving to the owner of the said land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen at any time between sunrise and sunset and to execute the necessary work.

(3) Subject to the provisions of this Ordinance, the owner or occupier of any premises, or any agent or person employed by him for that purpose, may, after giving the owner of any land, wherein a drain has already been lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen at any time between sunrise and sunset for the purpose of repairing or cleansing such drain.

(4) In executing any work under this section as little damage as possible shall be done; and the owner or occupier of premises

for the benefit of which the work is done shall—

- (a) cause the work to be executed with the least practicable delay ;
- (b) fill in, reinstate, and make good at his own cost the land broken up for the purpose of executing the said work; and
- (c) pay compensation to any person who sustains damage by the execution of the said work.

(5) Every owner of land who refuses to permit or prevents without reasonable cause the execution of any work 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 one hundred rupees; and every such owner who persists in such refusal or who continues to prevent the execution of such work after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

(6) When the owner of any land into, through, or under which a drain has been carried under this section while such land is unbuilt upon, desires at any time afterwards to erect a building on it, such land, the Council shall, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove, divert, reconstruct, or protect the same in such manner as may be approved by the Council and to fill in, make good, and reinstate the land ;

Provided that no such requisition shall be made unless, in the opinion of the Council, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment of the same, that the drain should be closed, removed, diverted, reconstructed, or protected.

(7) Every owner or occupier who refuses to comply with the requirements of any notice served on him under subsection (6) within a reasonable time, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees.

111. (1) Where it appears to the Council that the only or the best practicable means by which a drain required for the drainage of any premises can be emptied into any drain or other fit place into which drains may lawfully be discharged is through a drain belonging to some person or persons other than the owner of the said premises, the Council after giving the said person or persons a reasonable opportunity of stating any objection thereto, may, if no objection is raised, or if any objection which is raised appears to the Council invalid or insufficient, by an order in writing, authorize the said owner to use the last-mentioned drain, or declare him to be a joint owner or one of the joint owners thereof, on such conditions as to the payment of rent or compensation, and as to connecting the drain of the said premises with such other drain as aforesaid, and as to the respective responsibilities of the parties for maintaining, flushing, cleansing, and emptying such last-mentioned drain or otherwise as may appear to the Council equitable.

Right of owners to joint use of drains.

(2) Every such order bearing the signature of the Mayor shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for that purpose, after fulfilling the conditions of the said order, and after giving to the owner or owners of the drain reasonable notice in writing of his intention so to do, to enter upon the land in which such drain is situated with assistants and workmen at any time between sunrise and sunset and, subject to the provisions of this Ordinance, to do all such things as may be necessary for—

- (a) connecting the two drains;
- (b) renewing, altering, or repairing the connection; and
- (c) discharging any responsibility attaching to the person in whose favour the Council's order is made for maintaining, flushing, cleansing, or emptying the drain or any part thereof.

(3) In executing any work under this section as little damage as possible shall be

done, and the person in whose favour the Council's order is made shall—

- (a) cause the work to be executed with the least practicable delay ;
- (b) fill in, reinstate, and make good at his own cost the land broken up, or repair and make good any damage to buildings occasioned by the execution of the said works ; and
- (c) pay compensation to any person who sustains damage by the execution of the said works.

(4) Every owner or occupier of any premises who refuses without reasonable cause, to permit, or prevents the execution of any works 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 one hundred rupees; and every such owner or occupier who persists in such refusal or who continues to prevent the execution of such work after a conviction thereof shall be guilty of a continuing offence and shall, on conviction, be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

Maintenance and repair of drains, &c.

112. (1) Every drain and every fixture or appliance connected therewith shall, from time to time, be repaired, flushed, cleansed, and cleared by the owner or occupier of the premises within which such drain may be situated.

(2) The Council may, by notice in writing served on the owner or occupier of such premises, require such owner or occupier within such time as may be specified in the notice, to repair, flush, cleanse, or clear such drain, fixture, or appliance.

(3) The Council may, if the requirements of such notice are not complied with, or if the Council receives an application from the said owner or occupier so to do, or if the Council deems immediate action necessary, repair, flush, cleanse, or clear such drain, fixture, or appliance, and the expenses incurred thereby shall be paid by the owner or the said occupier, and, in

case of default, shall be recoverable as hereinafter provided.

(4) The owner of any premises in which drains, fixtures and appliances connected therewith are provided for the common use of the occupiers of such premises shall make such provision and take such measures as may be necessary for keeping such drains, fixtures, and appliances in a proper sanitary condition. Every such owner who, after due notice in writing in that behalf from the Council fails to make such provision or to take such measures as the Council may think fit, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

(5) Where any drain, not being a drain vested in the Municipal Council, or any fixture or appliance is provided for the benefit of more premises than one, the Council may, in pursuance of the provisions of this section, by notice in writing, require the owners or occupiers of such premises, within such time as may be specified in the notice, to execute all or any of the works aforesaid, and the Council may, either in default of compliance with the requirements of such notice, or without such notice if the Council deem necessary, execute all or any of such works and recover the expenses of so doing from the said owners or occupiers in such proportions as it may deem just.

(6) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (2) or subsection (5) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

113. (1) Where, in the opinion of the Council—

Reconstruction of defective drains and appliances.

- (a) any drains or any fixtures and appliances connected therewith provided for the drainage of any premises are defective or in a condition injurious to health ;
- (b) any such drains or appliances are improperly connected to any public or other drain; or

(c) any such drains are not provided with proper and sufficient traps, gullies, ventilating shafts, inspection chambers, or other such appliances,

over the said street or public place ; and the Council may at any time alter or reconstruct any portion of such drain or appliance as it may think necessary.

the Council may, by notice in writing, served on the owner or occupier of such premises, require such owner or occupier, within such time as may be specified in the notice, to re-lay, reconstruct, make good, disconnect, or abolish such defective or improper drains, connections, fixtures, and appliances, and provide sufficient and suitable drains, connections, fixtures, and appliances in accordance with the provisions of this Ordinance and of any by-laws made thereunder.

(2) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the time specified in the notice shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees.

(3) For the purpose of determining whether any such drains, connections, fixtures, or appliances are defective or injurious to health or improperly connected to any public or other drain, the Council may order an inspection of the premises at any reasonable time, and the inspecting officer may enter the premises at any reasonable time (after giving due notice to the occupier) and, if necessary for the purpose of such inspection, may cause the ground to be opened wherever he may deem fit, doing as little damage as may be ; and where such drains, connections, fixtures, or appliances are found to be in a satisfactory condition they shall forthwith be reinstated, and the ground made good at the expense of the Council.

Drains or appliances laid in streets.

114. The Council may permit any drain, manhole, inspection chamber, gully, ventilating shaft, or similar appliances required in pursuance of this Ordinance for the drainage of any premises to be constructed, laid, or fixed over, through, or under any street or public place:

Provided that such permission shall not be deemed to convey to the owner of the said premises any special rights whatsoever

115. (1) Any person authorized in that behalf by the Council may, after giving due notice to the occupier, enter any premises between the hours of eight in the morning and five in the afternoon for the purpose of inspecting, flushing, clearing, repairing, or maintaining any drain, manhole, inspection chamber, gully, ventilating shaft or other appliance connected therewith: Entry of premises.

Provided that no such notice need be given in any case, where the entry is made for the purpose of inspecting, flushing or maintaining any public drain, or for the purpose of inspecting any drain or other aforementioned appliance which the person authorized as aforesaid has reason to believe is the source of any nuisance.

(2) Every person who prevents or attempts to prevent the person authorized as aforesaid from entering any premises or refuses admittance thereto shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees and every person who continues to prevent such entry or who persists in such refusal after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

116. (1) Every person who uses or causes or suffers to be used any new drain, gully, bathroom, water-closet, privy, urinal or other sanitary appliance provided in pursuance of this Ordinance without the written permission of the Council, or until the Council has given a certificate that such drain, gully, bathroom, water-closet, privy, urinal, or other sanitary appliance conforms in all respects to the provisions of this Ordinance and of any by-laws made thereunder, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees; and every person who, after a conviction thereof, uses or causes or suffers to be used any sanitary appliance aforesaid without obtaining such certificate or permission, shall be guilty of a New drains not to be used without permission.

continuing offence and shall on conviction be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

(2) Any person making such new provision may apply in writing to the Council for such certificate, and thereupon the Council, after such inquiry as it may consider necessary, shall, within fourteen days of the receipt of the application, either grant the certificate, or inform the applicant of its refusal to do so, and of the grounds for such refusal.

Offences.

117. (1) No person shall discharge or cause or suffer to be discharged, without the sanction in writing of the Council, any sullage, foul liquids, or faecal matter into any drain or other place which is not suitable or intended to receive such discharge, or into any land or place in such a manner as to cause a nuisance, or wilfully discharge or cause to be discharged any rain water into any drain which is intended to carry foul water.

(2) No person shall discharge or cause or suffer to be discharged into any drain any hot water, steam, or any liquid which would prejudicially affect the drain or the flow or the disposal of the sewage or water conveyed therein, or which would from its nature, temperature, or otherwise be likely to create a nuisance.

(3) No person shall drop, pass, or place, or cause or suffer to be dropped, passed, or placed, into or in any drain any brick, stone, earth, ashes or any substance or matter which such drain is not intended to receive, or which by reason of its amount or nature may be likely to cause such drain or any other drain connected therewith to be obstructed, or which may prejudicially affect any such drain or the flow therein or may be likely to create a nuisance.

(4) Without the written permission of the Council, no person shall in any way alter the fixing, disposition, or position of, or obstruct, remove, stop up, or change, any drain, ventilation pipe, closet, or other fitting or appliance connected therewith.

(5) No person shall erect, re-erect, or alter any building in such a manner as to cause any drain, closet, or appliance provided in or for the benefit of such building or of any other building within the same premises to contravene the provisions of this Ordinance or of any by-law made thereunder.

(6) Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees; and every person who continues such contravention after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

LATRINES

118. (1) any case where the Council is of opinion that any privy, water-closet or bathroom, or additional privy, water-closet or bathroom should be attached to, or provided for, any house or building or land, the Council may, by notice in writing served on the owner of such house or building or land, require such owner, within thirty days from the service of the notice, to cause such privy, water-closet or bathroom to be constructed in accordance with the requisition contained in such notice.

Construction of additional privies.

(2) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the said period of thirty days shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

119. (I) The Council may, by notice in writing served on any person employing a large body of workmen or labourers, require such person to—

Duty of employers of labour to provide privies.

(a) provide within such time as may be specified in the notice such number of privies, water-closets and urinals as may seem to the Council necessary; and in any case where persons of both sexes are employed or intended to be employed or are

in attendance, to provide proper separate accommodation for persons of each sex ; and

(b) cause the same to be maintained in a sanitary condition and proper order.

(2) Where any person served with a notice under subsection (I) fails or neglects to provide and maintain such privies, water-closets, and urinals or to maintain the same in a sanitary condition or in proper order, the Council may cause such privies, water-closets and urinals to be constructed or to be maintained in a sanitary condition or in proper order, and the expenses incurred by the Council in respect thereof shall be paid by the person aforesaid, and, in case of default, shall be recoverable as hereinafter provided.

(3) Every person who fails or neglects to comply with the requirements of any notice served on him under subsection (I) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred rupees.

Nrglectiing to close cesspool,

120. (I) The Council may, by notice in writing, served on the owner or occupier of any house or building or land having a cesspool on the premises, require such owner or occupier within thirty days from the date of service of the notice, to close such cesspool and to substitute a privy or water-closet therefor.

(2) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (I) within the said period of thirty days shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees.

Offences.

121. (1) No person shall injure or improperly foul, or suffer to be in a foul condition for want of proper cleansing, any privy, water-closet, or urinal or the approaches thereto, used in common by the occupiers of two or more separate dwelling houses, or by any other person or persons. Every person offending against the provisions of this subsection, or in the

absence of proof satisfactory to the court as to which of the persons having the use in common of such privy, or urinal, or the approaches thereto as aforesaid is in default, each of such last-mentioned persons shall be deemed to have contravened the provisions of this subsection,

(2) Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees; and every person who continues such contravention after a conviction thereof shall be guilty of a continuing offence and shall be liable on conviction to a fine not exceeding twenty-five rupees for each day during which the offence is continued.

INSANITARY BUILDINGS

122. It shall be the duty of the Council to cause to be made, from time to time, an inspection of every part of the Municipality with a view to securing that the houses or buildings in the Municipality are kept in such sanitary condition as is required by the provisions of this Ordinance or any other enactmen't, and to undertake all necessary measures to enforce such provisions within the Municipality.

Duty of Council as to insanitary buildings.

123. (I) Whenever the Council is satisfied that any buildings or blocks of buildings, whether existing at the date of the constitution of the Council or subsequently erected, are, by reason of the occurrence of an epidemic or of the manner in which such buildings are crowded together, or of the want of drainage or the impracticability of scavenging, attended with risk to the health of the inhabitants thereof or of the neighbourhood, the Council shall serve a notice on the owners or occupiers thereof, or, at its option on the owner of the land on which such buildings are constructed, to execute within such time as may be specified in the notice, such operations including the alteration of such building as the Council may deem necessary for the avoidance of such risk.

Duty of Council as to existing buildings.

(2) In any case where an owner or occupier served with a notice under subsection (1) refuses or neglects to execute

such operations within the time specified in the notice, any officer authorized by the Council in that behalf may cause the buildings to be taken down, or such operations to be performed in respect thereof, as the Council may deem necessary to prevent such risk.

(3) Where any buildings are taken down under subsection (2), the Council or the authorized officer shall cause the materials of each building to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the building, or if the owner be unknown or the title disputed, shall be held in deposit by the Council until the person entitled thereto obtains the order of a competent court for the payment of such proceeds.

Overcrowding of houses.

124. Whenever it appears to the Council that any house is so overcrowded as to be dangerous or prejudicial to the health of the occupiers thereof, or of the neighbourhood, and the occupiers consist of more than one family, the Council shall cause proceedings to be taken before a Magistrate or Municipal Magistrate to abate such overcrowding, and the Magistrate shall thereupon make such order as he may think fit; and each of the persons permitting such overcrowding shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty-five rupees for each day after the date of such order during which such overcrowding shall continue.

Power of Council to inspect and limewash houses.

125. It shall be lawful for any person authorized in that behalf by the Council at any time between sunrise and sunset to enter into and inspect any house or building, and by an order in writing to direct all or any part thereof to be forthwith internally and externally limewashed or otherwise cleaned; and if the owner or occupier of such house or building neglects to comply with such direction within seven days from the time when the order shall have been served upon him, the Council may cause the work to be done, and the expenses thereby incurred shall be paid by the owner, and, in case of default, shall be recoverable as hereinafter provided.

126. (1) In any Municipality it shall not be lawful for any person to erect or construct any house, hut, shed, or other building (whether to be used as a dwelling or as a stable or for any other purpose) having its external roof or walls made of grass, leaves, thatch, cadjans, mats, or other such inflammable material, without first obtaining the permission of the Council.

Houses or huts not to be built or roofed with cadjan without permission.

(2) The permission given by the Council under subsection (1) shall in every case be subject to a specified time-limit and such conditions as it may impose in writing for the purpose of ensuring that such inflammable material as may be used for the roof or walls of the building to which the permission relates will be replaced at the earliest opportunity by such non-inflammable or durable material as may be approved by the Council.

(3) If any house, hut, shed, or other building of the description referred to in subsection (1) is built without the permission required by that subsection, the Council shall give notice to the owner thereof, or of the ground upon which such building is erected or constructed, or is being erected or constructed, by affixing a notice to some conspicuous part of such house, hut, shed, or other building, to take down and remove the building forthwith or within such time as the Council may specify in the notice.

(4) If any house, hut, shed, or other building is not taken down and removed forthwith or within the time specified in any notice under subsection (3), the Council shall cause the building to be taken down and removed, and the expenses incurred by the Council in doing so shall be paid by the owner of the building or of the ground upon which it is built, and, in case of default, shall be recoverable as hereinafter provided.

(5) Nothing in the preceding provisions of this section shall apply to any house, hut, shed, or other building which was erected or constructed before the date of the commencement of this Ordinance; and in the case of any such house, hut, shed or other building having its external roof or walls made of grass, leaves, thatch, cadjans, mats or other inflammable material, the

Council may give notice to the owner thereof, or of the ground upon which such building stands, by affixing a notice to some conspicuous part of such house, hut, shed, or other building, to take down and remove the building forthwith or within such time as may be specified in the notice ; and in the event of such building not being taken down and removed in compliance with the requirements of such notice the provisions of subsection (4) shall apply.

shall be guilty of an offence ; and the Council may cause such building to be altered, pulled down, or otherwise dealt with as it may deem proper, and may recover the expenses thereby incurred from the owner of the building in the manner hereinafter provided.

CONSERVANCY AND SCAVENGING

CONSTRUCTION OF BUILDINGS

Certificate of conformity with building by-laws.

127. (1) No building constructed after the date of the commencement of this Ordinance shall be occupied, except by a caretaker, until the Council has given a certificate that such building, as regards construction, drainage, and other respects conforms to the provisions of this Ordinance and to the by-laws made thereunder.

(2) Any person who has erected any building may apply in writing to the Council for such certificate, and thereupon the Council, after such inquiry as it may consider necessary, shall, within twenty-one days of the receipt of the application, either grant the certificate or inform the applicant of its refusal to do so and the grounds of such refusal.

(3) Every person who occupies or allows to be occupied any building in contravention of this section shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty-five rupees for each day during which the contravention continues.

Floor level of new building.

128. (1) No building within any Municipality shall be hereafter constructed having the ground floor at a lower level than one foot above the highest recorded flood at the site, or lower than such level as, in the opinion of the Council, will allow of the drainage from the premises being led into some public drain either existing or to be hereafter made, or other fit place into which the Council is empowered to empty drains.

(2) Every person who constructs any building in contravention of this section

129. It shall be the duty of the Council, so far as is reasonably practicable, to take all necessary measures in every part of the Municipality—

Duty of Council as to conservancy and scavenging.

- (a) for properly sweeping and cleansing the streets, including the footways, and for collecting and removing all street refuse;
- (b) for securing the due removal at proper periods of all house refuse, and the due cleansing any emptying at proper periods of all latrines and cesspits; and
- (c) for the proper disposal of all street refuse, house refuse and night-soil.

130. All street refuse, house refuse, night-soil, or other similar matter, collected in any Municipality under the provisions of this Part shall be the property of the Council, and the Council shall have full power to sell or dispose of all such matter and the money arising therefrom shall be paid to the credit of the Municipal Fund.

All refuse collected to be property of Council.

131. The Council shall, from time to time, provide places convenient for the proper disposal of all street refuse, house refuse, night-soil, and similar matter removed in accordance with the provisions of this Part, and for keeping all vehicles, animals, implements, and other things required for that purpose or for any of the other purposes of this Ordinance, and shall take all such measures and precautions as may be necessary to ensure that no such refuse, night-soil, or similar matter removed in accordance with the provisions of this Part is disposed of in such a way as to cause a nuisance.

Places for disposal of refuse and keeping equipment.

NUISANCES

Inspection of nuisances.

132. It shall be the duty of the Council to cause to be made, from time to time, an inspection of the Municipality with a view to ascertaining what nuisances exist calling for abatement under the powers conferred by this Ordinance or any other enactment, and to the enforcement of the provisions of this Ordinance or such other enactment in order to abate such nuisances.

Power to fill up unwholesome tanks on private premises.

133. (i) Where in any Municipality, any private tank or low marshy ground or any waste or stagnant water, situated on any private land, appears to the Council to be injurious to health or to be offensive to the neighbourhood, the Council shall, by notice in writing, require the owner of that land to cleanse or fill up such tank or marshy ground, or to drain off or remove such waste or stagnant water.

(2) If any owner on whom a notice under subsection (1) is served refuses or neglects to comply with the notice within such period as may be specified therein, the Mayor or the officers and workmen of the Council may enter into the land and do all necessary acts for all or any of the purposes referred to in subsection (1), and the expenses incurred thereby shall be paid by the owner of the land, and, in case of default, shall be recoverable as hereinafter provided.

(3) Where the land- referred to in subsection (2) is owned by more than one person, the expenses referred to in that subsection shall be apportioned among, and recoverable from, the several owners in such proportions as may be determined by the Council.

Nuisance by child.

134. Every person who, having the care or custody of any child under twelve years of age, omits to prevent such child from committing a nuisance in or by the side of any street, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten rupees.

Public bathing places.

135. (1) The Council may by public notice prohibit bathing or the washing of animals or clothes in any public place not set apart for the purpose, or at times or by

persons other than those specified in the notice, and all other acts which may render water in public places foul or unfit for use, or may cause inconvenience or annoyance to persons using the bathing or washing places. Such notice shall be published in the Gazette and in two at least of the newspapers circulating within the Municipality.

(2) Every person who bathes, washes, or does any act contrary to such prohibition as aforesaid shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

136. Every person who bathes in, or washes any clothes or other things in, or causes or suffers any dirt, refuse, or impurity to flow into, or otherwise in any manner pollutes or contaminates any reservoir used for the purposes of the waterworks belonging to any Municipal Council, or any stream or watercourse whereof the water flows into or feeds any such reservoir, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees, and, in case of a continuing offence, to an additional fine not exceeding ten rupees for each day during which the offence is continued after a conviction thereof or after service of a written notice from the Council directing attention to the offence.

Pollution of streams which flow into reservoirs or waterworks.

136A. (1) Any person who, within the administrative limits of the Colombo Municipal Council, operates or causes to be operated any factory which causes pollution so as to endanger or prejudice the health of the neighbourhood, shall be guilty of an offence.

Pollution caused by factories. [§ 2, 42 of 1979.]

(2) Where a Magistrate after summary inquiry convicts a person of an offence under subsection (1) he shall, depending on the degree of pollution caused by such factory, make order—

(a) that such person pay a fine equivalent to twice the fee payable for a licence issued under the provisions of this Ordinance or any by-law made thereunder, in respect of the premises on which that factory is situated notwithstanding

that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction and the amount so recovered shall be paid into the Fund of the Council; or

(b) that operations in such factory shall cease.

For the purposes of this section, "pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by discharging, emitting or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare or to animals, birds, wildlife, fish or aquatic life, or to plants,

INFECTIOUS DISEASES AND EPIDEMICS

Medical practitioners to report infectious diseases.

137. (1) Every medical practitioner or person professing to treat disease who attends to any person suffering from any of the following diseases, namely, smallpox, cholera, acute or choleraic diarrhoea, plague, typhoid or enteric fever, phthisis, simple continued fever of seven days' duration or over, chicken pox, measles, scarlet fever, diphtheria or such other diseases as may be, from time to time, proclaimed under the regulations framed under the Quarantine and Prevention of Diseases Ordinance, shall within three hours of such attendance give information in writing to the medical officer of health stating the name, race, sex, and age of the diseased person, his residence, and the nature of his disease.

(2) The occupier of any building in which there is any person affected with any of the diseases mentioned in subsection (1) shall forthwith inform the medical officer of health, and the occupier and the person so affected shall furnish such officer with all the information regarding the affected person which he may reasonably demand, including full particulars of all places at which the affected person spent the nights during the fourteen days prior to such demand.

(3) Every person who fails to comply with any of the requirements of this section shall be guilty of an offence and shall be liable on conviction 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 such imprisonment,

138. (1) It shall be lawful for any person authorized in that behalf by the Council, the medical officer of health or any sanitary officer acting on the written orders of the medical officer of health, to enter at any time without notice any dwelling place or premises for the purpose of searching for cases of infectious diseases.

Search of premises and segregation of infected persons.

(2) It shall be lawful for any person authorized as aforesaid or the medical officer of health to cause persons diseased or suspected to be affected with any disease mentioned in the regulations made under section 2 of the Quarantine and Prevention of Diseases Ordinance, to be removed to some public hospital or other place provided by the Council, or to any place selected by such person which the person authorized as aforesaid or the medical officer of health considers suitable—

- (a) from any house or place in which goods are exposed for sale;
- (b) from any house or place of public resort;
- (c) from any building in which there are no means of isolating such person from the other inmates ; or
- (d) from any building where the retention of such person is likely to prove a source of danger to others.

(3) Any person authorized as aforesaid or the medical officer of health may, in any case where a person is affected with any of the said diseases in any such house or place as is mentioned in subsection (2) (a), allow such person to remain there on condition that the sale of goods from such house or place is discontinued until such person or the medical officer of health has given permission in writing to resume such sale.

(4) Any person authorized as aforesaid or the medical officer of health may cause any person who is found in any infected locality, or who has come from any place where disease exists, to be removed to a place of observation set apart for the purpose, or to be kept under surveillance for such period as such person or the medical officer of health may direct.

person suffering from any infectious disease without payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any enactment relating to public conveyances for the time being in force to the contrary notwithstanding.

Penalty for disposal of infected articles.

139. Every person who gives, lends, sells, transmits, or otherwise disposes of any article or thing which he has reason to know has been exposed to infection without first disinfecting such article or other thing to the satisfaction of the medical officer of health shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees:

(4) Every public conveyance in which a person suffering from any infectious disease is conveyed shall be forthwith disinfected by the officer in charge of the place to which such person is removed.

141. Every person who knowingly lets a house or other building, or part of a house or building, in which any person has been suffering from any infectious disease, without having such house or other building or part thereof, and all articles therein liable to retain infection, disinfected to the satisfaction of a registered medical practitioner shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees. For the purposes of this section, a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging-house.

Penalty for letting infected rooms.

Provided that nothing in the preceding provisions of this section shall be deemed to apply to a person who transmits with proper precautions any article or thing for the purpose of having the same disinfected in a place approved by the Council for the purpose.

Penalty for exposure of infected persons.

140. (1) Every person suffering from an infectious disease who, without proper precaution against spreading such disease, causes himself to be conveyed in a public conveyance, and, every person in charge of or accompanying a patient so conveyed, and every person knowing himself to be suffering from any infectious disease who enters a public conveyance without previously notifying to the owner or driver that he is so suffering shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees, and to an additional fine of such amount as the Magistrate or Municipal Magistrate may deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance.

142. In the event of any epidemic or any unusual mortality prevailing within a Municipality, the Minister may appoint a special officer for the purpose of investigating the causes of such epidemic or mortality, and of advising the Council and the Minister as to the sanitary measures to be taken.

Appointment of special officer.

143. The appointment of a Special officer under section 142 may be made, from time to time, for such period not exceeding twelve months as the Minister may deem necessary. Such officer shall be paid out of the Municipal Fund such salary as may be fixed by the Minister.

Salary of special officer.

(2) The amount of any additional fine imposed under subsection (1) shall be awarded by the Magistrate or Municipal Magistrate, subject to the provisions of the Code of Criminal Procedure Act, to the owner or driver of the said conveyance.

144. Every special officer appointed under section 142 or any health officer shall, during his employment, have all the powers of entry and inspection given to the Council or any officer of the Council by this Ordinance.

Powers of special officer

(3) No owner or driver of a public conveyance shall be required to convey any

OFFENSIVE AND DANGEROUS TRADES

Slaughter-houses.

145. (1) No place shall be used as a slaughterhouse within a Municipality unless a licence in writing for the use thereof as a slaughterhouse has been obtained from the Council. The Council is hereby empowered, at its discretion, from time to time, to grant such licence, and such licence to suspend or revoke, as to the Council may seem necessary.

(2) Every person who, within the Municipality, uses as a slaughterhouse any place which is not so licensed shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two hundred rupees, and, in the case of a continuing offence, to an additional fine not exceeding fifty rupees for each day during which the offence is continued after notice has been given by the Council to discontinue such use.

Penalty for using slaughter-houses during suspension or revocation of licence.

146. (1) Every person who during the period for which any licence granted under section 145 is suspended, or after the licence is revoked as aforesaid, slaughters any animal, or allows any animal to be slaughtered in the slaughterhouse to which such licence relates, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees, and to an additional fine not exceeding one hundred rupees for each day on which any animal is slaughtered or allowed to be slaughtered therein after notice has been given by the Council to discontinue the slaughter of animals therein.

(2) For the purposes of this section, " animal" means any bull, cow, calf, ox, buffalo, sheep, goat, or swine.

Licensing of offensive and dangerous trades and places.

147. (1) No place shall be used within any Municipality for any of the following purposes, namely, for boiling offal or blood, or as a soap-house, oil-boiling-house, dyeing-house, tannery, brick, pottery or lime kiln, sago manufactory, gunpowder manufactory, manufactory of fireworks, or other manufactory or place of business from which either offensive or unwholesome smells arise, or for any purposes which are calculated to be dangerous to life, or as a yard or depot for hay, straw, wood, coal,

cotton, bones, or inflammable oil, or for any other trade or business which the Council may, by means of by-laws, declare to be an offensive or dangerous trade or business for the purposes of this section, except under a licence from the Council, which is hereby empowered, at its discretion, from time to time, to grant such licences, and to impose such terms therein as to the Council may appear expedient.

(2) No licence for any of the purposes mentioned in subsection (1) shall be given within the administrative limits of the Council under section 5 of the Nuisances Ordinance.

(3) Every person who without a licence as aforesaid uses any place within the Municipality for any of the purposes mentioned in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees, and, in case of a continuing offence, to an additional fine not exceeding fifty rupees for each day during which the said offence is continued after a conviction thereof.

148. (1) It shall be lawful for the Council to suspend or revoke any licence granted under section 147 if it appears to the Council to be necessary to do so :

Suspension or revocation of licence.

Provided, however, that where the licence is suspended or revoked, except on the ground that the owner has violated the licence or any of the terms thereof, the Council shall be liable to make compensation to the owner for the loss to which he has been subjected by reason of the suspension or revocation.

(2) Every person who uses or permits to be used any place for any purpose mentioned in subsection (1) of section 147 after he is given notice that his licence has been suspended or revoked shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two hundred rupees for each day after such notice during which such place is so used.

MISCELLANEOUS

Default of owners or occupiers.

149. (1) Where any owner or occupier neglects to comply with the requirements of any notice served on him in pursuance of any of the preceding provisions of this Part within the time specified in such notice, or if no time is so specified, then, within a reasonable time, the Council may cause the required works to be executed, and the expenses thereof shall be recovered from the said owner or occupier as provided in this Ordinance.

(2) Where any person, either by the commission or omission of any action, contravenes any of the preceding provisions of this Part, the Council may—

- (a) by notice in writing, require such person, within a reasonable time to be specified in the notice, to undertake such works as may be necessary to abate such contravention; or
- (b) without such notice, if it deems necessary, or if such person fails to comply with such notice within a reasonable time, undertake such works and recover the cost of so doing from such person in the manner provided in this Ordinance.

(3) Where any drain, not being a drain vested in the Council, and any fixture or appliance in connexion therewith, is provided for the benefit of more premises than one the owners or occupiers of such premises shall, for the purpose of this Part, and in so far as the Council may in any particular case think fit, be deemed to be the joint owners or users of such drain, fixture, or appliance, and jointly liable for any contravention of any provision of this Ordinance and for any expenses that the Council may legally recover in pursuance thereof; and the Council may recover such expenses in such proportion as it may deem just.

Work may be executed by Council.

150. At the written request of the owner or occupier of any premises in which works are required to be done in pursuance of this Ordinance, it shall be lawful for the Council, if it sees fit, and under such

conditions as it may determine, to cause all or any of such works to be done by contract or otherwise, and the estimated expenses or the actual expenses, as the case may be, thereof may be recovered in advance or otherwise in the manner provided in this Ordinance.

151. Where, in pursuance of the preceding provisions of this Part, the Council has executed any work on behalf of any person whether in default of compliance with any notice or otherwise, and the expenses thereof are recoverable from such person, the Council may include in such expenses a reasonable commission for surveys, plans, superintendence, and establishment expenses.

Inclusion of commission in expenses.

152. (1) Where, in pursuance of the preceding provisions of this Part, the Council has executed, by contract or otherwise, any works required in connexion with the installation or improvement of a drainage system on or for any premises, and the amount of the expenses thereof are recoverable from the owner of such premises, the Council may recover such expenses in the manner provided in this Ordinance:

Recovery of expenses by instalments.

Provided that if such owner gives notice in writing, within fourteen days of notice by the Council of completion of the work, of his desire to pay the amount of such expenses by quarterly instalments, the Council shall recover the amount of such expenses by quarterly instalments sufficient to defray the whole amount within a period not exceeding fifteen years, together with interest at such rate as the Council may, from time to time, by resolution determine.

(2) The expenses referred to in subsection (1) shall co-equally with the Municipal rates, be a first charge on the premises in respect of which the same are incurred or made, and shall be paid to the Council by the owner of such premises and his successors in title, and the instalments thereof as they fall due shall be recoverable from the present or future owner of the premises in the same manner as rates or taxes may be recovered, but there shall be no remission of such instalments or any part thereof in cases of non-tenancy of the said

premises. The first instalment of such payments shall become due and shall be paid on the first day of the quarter following that in which the work is completed.

Register of expenses.

153. The Council shall keep at the Municipal office a register of all expenses incurred and recoverable under section 152 and shall show in such register the total amounts so incurred and recoverable, the instalments in which the same are payable, and the balances for the time being outstanding. Such register shall be open at all reasonable times to the inspection of any person on payment to the Council of a fee of twenty-five cents for every such inspection-

Loans for private works.

154. The execution of any work the expenses of which are recoverable and may be recovered as provided in section 152 shall be deemed to be a purpose for which a Municipal Council may borrow money under section 191, and the provisions of Part X and of any regulations made thereunder shall apply accordingly :

Provided that any money so borrowed shall not be taken into account for the purpose of the application of section 192.

PART VII

MARKETS AND SALE OF ARTICLES

Provision of markets and charging of rents and fees.

155. A Municipal Council may, from time to time, as occasion requires, provide places within the Municipality for the purpose of being used as public markets, and may charge such rents, tolls and fees as to it may seem fit for the use of, or the right to expose goods for sale in, such markets, and for the use of shops, stalls, sheds, pens, and standings therein. All such rents, tolls, and fees shall be recoverable by the Commissioner from the persons liable to pay the same, as if the amounts payable in respect thereof were taxes due under this Ordinance.

[§ 7, 48 of 1971.1

Expulsion of persons breaking by-laws and determination of lease.

156. The Council may—

- (a) expel or cause to be expelled from any public market any person who, or whose servant, is convicted of a

breach of any by-law made under this Ordinance in relation to markets;

- (b) prevent such person by himself or his servants from further carrying on any trade or business in such market or occupying any stall, shop, or other place therein; and
- (c) determine any lease or tenure which such person may have in any such stall, shop, or other place within the market.

157. A Municipal Council may, subject to the provisions of paragraph (f) of subsection (1) of section 40, sell, or let to tenants on tease or otherwise, on such terms as it may think fit, any public market or any part thereof, and may close any such market or part thereof.

Sale, lease, and closure of markets.

158. Every person who, without the permission of the Council, sells or exposes for sale any article within a public market, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees.

Penalty for selling in market without permission.

159. The Council may, from time to time, by notification in the Gazette, prohibit the sale, or exposure for sale, of any articles in or upon any specified public street or part of such street, and may, in like manner, cancel, suspend, or modify such prohibition. Every person who, after such notification, sells or exposes for sale any articles in any such street in contravention of the notification, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding twenty rupees.

Street sales.

160. (1) The medical officer of health or any person authorized generally or specially by the Council in writing for that purpose, may at all reasonable times enter into and inspect any place used for the sale of articles of human food or drink or any place used for keeping or storing any such articles which are intended for sale, and may examine any such articles which are found therein.

Unwholesome provisions.

(2) Any such article which, on such examination, appears to such officer or person to be unfit for human food or drink may be seized by him.

(3) Every officer or person seizing any article under subsection (2) shall cause such article to be produced forthwith before a Magistrate.

(4) Where the Magistrate finds that the article so seized is unfit for human food or drink, he shall order the same to be destroyed or so disposed of as to prevent it from being exposed for sale or used for food or drink ; and the owner thereof, or the person in whose possession the same was found, shall be liable to be convicted of an offence under section 266 of the Penal Code.

(5) Where the Magistrate finds that the article so seized was fit for human food or drink, he may make an order upon the Council to return such article, or such portion thereof as may be in good condition, to the owner, or to the person in whose possession such article was found, and to pay such owner or person such reasonable amount as the Magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such seizure.

PART VIII

OFFICERS AND SERVANTS

THE MUNICIPAL MAGISTRATE

161. There shall be a Municipal Magistrate appointed to each Municipality, and the Magistrate having jurisdiction within such Municipality may be appointed to be Municipal Magistrate, in addition to his own duties. Appointment of Municipal Magistrate.

162. Where a Municipal Magistrate has been appointed for any Municipality, other than the Magistrate having jurisdiction therein, such Municipal Magistrate may be appointed to be an Additional Magistrate, in addition to his own duties. Municipal Magistrate may be appointed to be Additional Magistrate.

163. (1) A Municipal Magistrate shall hear, try, and determine any offences committed within the Municipality under this Ordinance or under any by-laws, rules or regulations made thereunder, and also any offences under any of the enactments mentioned in the first column of the following tabular statement which are triable by a Municipal Magistrate, and shall have jurisdiction to award such punishment to the offender as is authorized by law :— The jurisdiction of the Municipal Magistrate.

OFFENCES TRIABLE BY MUNICIPAL MAGISTRATES

<i>Short title of enactment</i>	<i>Offence triable by Municipal Magistrate</i>
The Auctioneers and Brokers Ordinance	Any offence under the Ordinance
The Boats Ordinance	Any offence under the Ordinance
The Brothels Ordinance	Any offence under the Ordinance
The Bread Ordinance	Any offence under the Ordinance
The Butchers Ordinance	Any offence under the Ordinance
The Cemeteries and Burials Ordinance	Any offence under the Ordinance
The Census Ordinance	Any offence under the Ordinance
The Contagious Diseases Ordinance	Any offence under the Ordinance
The Contagious Diseases (Animals) Ordinance	Any offence under the Ordinance
The Excise Ordinance	Any offence under the Ordinance
The Gaming Ordinance	Any offence under the Ordinance
The Gas Meter Ordinance	Any offence under the Ordinance
The Motor Traffic Act	Any offence under the Act
The Nuisances Ordinance	Any offence under the Ordinance
The Penal Code	Sections 257, 258, 259
The Police Ordinance	Any offence under the Ordinance
The Prevention of Cruelty to Animals Ordinance	Any offence under the Ordinance
The Quarries Ordinance, 1889	Any offence under the Ordinance
The Rabies Ordinance	Any offence under the Ordinance
The State Lands Ordinance	Any offence under Part VIII of the Ordinance
The Surveyors Ordinance	Any offence under the Ordinance

Short title of enactment

Offence triable by Municipal Magistrate

The Thoroughfares Ordinance
 The Tolls Ordinance
 The Vaccination Ordinance
 The Vagrants Ordinance
 The Vehicles Ordinance
 The Weights and Measures Ordinance
 The Wells and Pits Ordinance
 *The Food and Drugs Act
 The Medical Ordinance

Any offence under the Ordinance
 Any offence under the Ordinance
 Any offence under the Ordinance
 Any offence under the Ordinance
 Any offence under the Ordinance
 Any offence under the Ordinance
 Any offence under the Ordinance
 Any offence under the Act
 Offences under section 54 of the Ordinance

(2) The President may, from time to time, by Order published in the Gazette, extend the jurisdiction of Municipal Magistrates to offences not comprised in the foregoing statement.

(b) be paid by the Deputy Secretary to the Treasury such salary as may be voted for that purpose by Parliament and such passage and other allowances as would ordinarily be payable to an officer of the Government of Sri Lanka in receipt of that salary ;

Additional Municipal Magistrate.

164. There may, from time to time, be appointed an Additional Municipal Magistrate for any Municipality ; and every Additional Municipal Magistrate shall, as regards offences committed within the Municipality, have the same powers and jurisdiction as a Municipal Magistrate.

and the Municipal Council shall—

(i) refund to the Deputy Secretary to the Treasury all disbursements by way of such salary and allowances made to or in respect of such Municipal Magistrate, and

Payment for services of Magistrate who is appointed Municipal Magistrate in addition to his own duties,

165. Where the Magistrate having jurisdiction within any Municipality is appointed to be Municipal Magistrate for such Municipality in addition to his own duties, the Municipal Council shall, out of the Municipal Fund, pay to the Deputy Secretary to the Treasury in respect of the services of the said Magistrate as Municipal Magistrate such sum as may, from time to time, be fixed by the Minister in charge of the subject of Justice with the concurrence of the Minister in charge of the subject of Finance.

(ii) if such Municipal Magistrate is granted a pension or gratuity on retirement or otherwise, or if upon his death any gratuity is granted to any of his dependants, in respect of his services as an officer of the Government of Sri Lanka, pay the whole of such pension or gratuity to the Deputy Secretary to the Treasury, or such portion thereof as may be certified by the Secretary to the Treasury to have been granted to him in respect of his services as such Municipal Magistrate.

Allowances, status, rights, salary and pension of Municipal Magistrate and payment of expenses.

166. (1) Where any person other than the Magistrate having jurisdiction in any area within which a Municipality is situated is appointed Municipal Magistrate for the Municipality or where a person is appointed to act temporarily as Municipal Magistrate, such Municipal Magistrate shall—

(2) (a) Where any such Municipal Magistrate as is referred to in subsection (1) is granted leave of absence, an officer may be appointed to act temporarily as Municipal Magistrate in his place and during his absence.

(a) by reason of such appointment become an officer of the Government of Sri Lanka and shall for the purposes of the Widows' and Orphans' Pension Fund Ordinance, and for all other purposes be deemed to be a public officer; and

(b) Such acting officer shall be paid by the Deputy Secretary to the Treasury such salary and allowances as the Minister in charge of the subject of Justice with the concurrence of the Minister in charge of the

* Repealed and replaced by the Food Act with effect from 1st February, 1981.

subject of Finance may direct, and the Municipal Council shall, in addition to the amount for which it may be liable under subsection (1) (b), refund to the Deputy Secretary to the Treasury all disbursements made as salary or allowances to such officer during the period of his appointment:

Provided that the total of the sum which the Municipal Council shall be liable so to refund shall not be greater than the amount for which it may be liable under subsection (1) (A) (i) during the said period.

(3) The expenses incurred in the establishment and maintenance of the court of any Municipal Magistrate referred to in subsection (1) shall be paid out of the Consolidated Fund and shall be refunded to the Consolidated Fund by the Council.

Oath to be taken by the Municipal Magistrate.

167. Every Municipal Magistrate shall, before commencing to exercise the functions of his office, take and subscribe the oath of allegiance and office in the form set out in the First Schedule, and such oath shall be enrolled in the court of such Municipal Magistrate, and the copy of such enrolment shall be forthwith transmitted to the Registrar of the Supreme Court to be filed of record in that court.

Procedure in Municipal Court.

168. All proceedings before a Municipal Magistrate shall be conducted and governed by the rules, forms, and procedure prescribed for and observed by Magistrates' Courts, and, subject to the provisions of this Ordinance, no appeal shall lie from any judgment or order of a Municipal Magistrate, except as provided for by the Code of Criminal Procedure Act, or by any other law for the time being in force, in respect of appeals from any judgment or order of a Magistrate's Court.

Stamp duties in proceedings in Municipal Court.

169. The provisions of any enactment for the time being in force relating to the stamp duties chargeable in respect of proceedings in Magistrates' Courts shall apply to proceedings in the court of a Municipal Magistrate.

OFFICERS AND SERVANTS OF THE COUNCIL

The Municipal Commissioner.

170. (1) There shall be a Municipal Commissioner for each Municipal Council. The Municipal Commissioner shall, next to

the Mayor, be the chief executive officer of the Council and all other officers and servants shall be subordinate to him.

(2) The Commissioner shall exercise, perform and discharge all the powers, duties and functions conferred or imposed upon, or vested in, or delegated to him by or under this Ordinance or any other written law.

(3) The Commissioner, in the exercise and performance of the powers, duties and functions delegated to him under this Ordinance, shall not act in opposition to, or in contravention of, any resolution, decision, direction or order of the Council, except with the permission in writing of the Mayor, in cases of extreme urgency, when there will not be sufficient time to call a special meeting of the Council.

(4) In the event of the vacation of the office of both the Mayor and the Deputy Mayor by death or resignation or for any other cause, then during the period intervening between the vacation of office of the Deputy Mayor and the election of a new Mayor the Commissioner may exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the Mayor by this Ordinance or any other written law. [§ 104, Law 24 of 1977.]

171. (1) The Commissioner may, with the consent of the Council, by general or special order in writing, delegate to any officer of the Council any of the powers, duties or functions conferred or imposed upon, or vested in or delegated to him as Commissioner by this Ordinance or any other written law. Delegation of Commissioner's powers.

(2) The exercise, discharge or performance by any officer of the Council of any power, function or duty delegated to him by order of the Commissioner shall be subject to such conditions and restrictions, and limited to such purpose or purposes, as may be specified in the order ; and any such delegation may at any time be varied or cancelled by order of the Commissioner.

Commissioner to have custody of books, &c.

172. The Commissioner shall be responsible for the custody of all books, deeds, contracts, accounts, vouchers and other documents and papers of the Council and shall permit any Councillor to inspect or peruse the same in the Municipal office.

Limitation of powers.

173. The exercise, discharge or performance by any officer of the Council of any power, function or duty delegated to him by resolution of the Council shall be subject to such conditions and restrictions, and limited to such purpose or purposes, as may be specified in the resolution ; and such delegation may at any time be varied or cancelled by resolution of the Council.

Charity Commissioner.

174. (1) A Municipal Council may, at any time, by resolution create the office of Charity Commissioner of the Council.

(2) The duties of the Charity Commissioner may be defined by the Council and may include, *inter alia*—

- (a) the giving of assistance and advice to existing charitable societies or institutions for the purpose of preventing waste of effort and extending the activities of such societies or institutions, and generally for such other purposes as may be necessary;
- (b) the making of reports to the Council as to the expenditure of contributions made by the Council to any such societies or institutions ;
- (c) the systematic study of poverty, distress, and unemployment and the making of proposals for the prevention thereof;
- (d) the consideration of applications for relief and the direction of applicants to the most appropriate society or institution; and
- (e) the keeping of records or registers of applicants for relief or persons in search of employment.

175. (1) A Municipal Council may, by resolution, declare the posts or offices in the service of the Council which are to be deemed to be executive posts. The holders for the time being of such posts and the Charity Commissioner, if any, of the Council shall, together with the Municipal Commissioner, be deemed to be executive officers of the Council.

(2) The executive officers of the Council shall exercise and perform all the powers, duties and functions, conferred or imposed upon, or vested in, or delegated to them under this Ordinance or any other written law.

176. The salary, allowances and conditions of service of any executive officer of a Municipal Council, being an officer whose services are lent by the Government to the Council, shall be determined by the Minister after consultation with the Council, and such salary and allowances shall be paid to such officer by the Council. The Council shall further pay to the Government such contribution as may be required by the Government in respect of the pension, leave, pay and other privileges, which would have accrued to the officer if he had not been employed in the service of the Council.

177. Notwithstanding anything in any other written law, the Commissioner may, if so authorized by the Council, from time to time, appoint or promote any person to any post or office in the service of the Council (other than a post in the Local Government Service)* the initial salary of which does not exceed such sum as may be specified in the resolution of the Council whereby such authority is delegated to the Commissioner.

178. Every person who is appointed to act in the place of any officer or servant of a Municipal Council, during the absence or temporary incapacity of such officer or servant, or during any vacancy, shall exercise, perform and discharge all the powers, duties and functions conferred or imposed upon, or vested in, or delegated to such officer or servant, and shall be subject to the same liabilities, restrictions and

Executive posts and executive officers.

Government servants as executive officers.

Power of Commissioner to make appointments and promotions.

Acting appointments.

• Vide also the Local Government Service Law.

conditions of service as the said officer or servant and shall, where such acting appointment is made in pursuance of the powers conferred by this Ordinance, receive such salary and allowances as the Council may determine.

exceeding one hundred rupees a month.

Disqualifications for appointment to any post or office in the service of the Council.

179. No person who—

- (a) has directly or indirectly any concern or interest in any contract or work made with or executed for a Municipal Council, or is a shareholder, director, secretary, manager or other officer of a joint stock company which has any such concern or interest; or
- (b) is acting professionally in relation to any matter on behalf of any person having any such concern or interest,

shall be appointed to any post or office in the service of the Council.

Officers and servants not to be interested in contracts of Council.

180. Any officer or servant of a Municipal Council who has directly or indirectly any concern or interest in any contract or work made with or executed for the Council shall be liable to dismissal from his office or employment; and if his concern or interest is otherwise than as a shareholder in a Joint stock company he shall be guilty of an offence and shall, upon conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

Suspension, punishment and dismissal of officers and servants.

181. Any officer or servant of a Municipal Council (other than a member of the Local Government service), may be suspended or dismissed, or fined or reduced in status, or any increment to his salary may be withheld for any specified period for any breach of departmental rules or discipline or for carelessness, incompetence, neglect of duty or other misconduct—

- (a) by the Council, if such officer or servant receives a salary exceeding one hundred rupees a month ; and
- (b) by the Mayor, if such officer or servant receives a salary not

182. (1) Subject to the provisions of subsection (2), leave of absence may be granted to any officer or servant of a Municipal Council (other than a member of the Local Government service) in accordance with by-laws made by the Council for that purpose under the provisions of section 272 of this Ordinance.

Leave of absence-

(2) Where an officer or servant of a Municipal Council is an officer or servant whose services are lent by the Government to the Council, leave of absence may be granted to him by the Secretary to the Ministry, after consulting the Council, upon the same terms and conditions as those upon which leave of absence would be granted to him under the Financial Regulations of the Government.

183. (1) A Municipal Council may establish and maintain a provident fund for the benefit of any of its servants who are not members of the Local Government service, make contributions out of the Municipal Fund to that fund, regulate the management and investment thereof, fix the contributions to be made thereto by, and the payments to be made therefrom to, such servants and make all such by-laws as may be necessary in that behalf.

Provident fund.

(2) Notwithstanding that a Municipal Council is not empowered by this section to grant or make rules for granting pensions, annuities or retiring allowances to officers or servants of the Council or to the widows, children, next of kin and dependants of any such officer or servant, any rules made by the Council in relation to the matters aforesaid under any repealed enactment shall continue in force for the purposes of the application of sections 57 and 58 of the Local Government Service Ordinance* and no further.

* Repealed by Act No. 18 of 1969, itself repealed by Law No. 16 of 1974.

Ex gratia payment of pension, annuity, gratuity, or retiring allowance.

184. (1) A Municipal Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant out of the Municipal Fund—

Administration, grant out of the Municipal Fund to such widow, children, next of kin or dependants a pension, annuity or gratuity.

[§ 3, 15 of 1957.]
[§ 2, 39 of 1958.]

- (a) to any person who retires or has retired from service as an officer or a servant of that Council, and
- (b) to any person who, not being a citi/en of Sri Lanka, ceases ur has ceased to be an officer or a servant of that Council by reason of his inability to continue to remain in Sri Lanka, owing to the expiry of the period for which he has been authori/.ed under the Immigrants and Emigrants Act to remain in Sri Lanka,

(2) Nothing in subsection (1) or subsection (IA) shall be deemed or construed to confer on any person any right to any pension, annuity, gratuity or retiring allowance under either of those subsections.

[§3,15 of 1957-]
[§ 3, 15 of 1957]

184A. (1) A Municipal Council may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Public Administration, make rules providing for the establishment of, and may establish in accordance with such rules, a scheme for the payment of gratuities to temporary officers and servants of that Council upon their discontinuance from the service of that Council.

Power to establish gratuity scheme. [§4,15 of 1957.]

a pension, gratuity, or retiring allowance in respect of any period of that service, and of service in any business or undertaking taken over by the Council prior to his becoming an officer or servant of the Council, for which no pension, gratuity, or retiring allowance, or no adequate pension, gratuity, or retiring allowance, is payable under any by-laws or rules of that Council or under any pension scheme established or deemed to be established under the Local Government Service Law.

(2) Rules under subsection (1) may be so made by a Municipal Council as to be applicable to temporary officers and servants of that Council who have been discontinued from the service of that Council before the coming into operation of the rules.

[§ 3.15 of 1957.]

Any such officer or servant to whom a pension is granted under the preceding provisions of this subsection may, at his option which shall be exercised within such period as may be determined by the Council, be paid, in lieu of such pension, a pension at the rate of three-fourths of such pension, together with a gratuity equal to ten times the annual value of the reduction so made in such pension.

184B. Any member of the Local Government Service or any other person not being a member of that Service employed by a Municipal Council, who retires or has retired from such service and who exercises or has exercised the option of commutation of his pension, may, with effect from the date following the expiry of a period of ten years from the date of his retirement or from February I, 1977, whichever date is the later, be paid by that Council, the full pension which would have been paid to him had he not exercised such option:

Power lu grant full pension to members of the Local Government Service and others who had exercised option of commutation of pension. [§ 2, Law 5 pf 1975.] [§2, 18 of 1979.] [§ 2. 18 of 1979.]

[§ 3. 15 of 1957.]

(IA) Where no pension, annuity or gratuity or no adequate pension, annuity or gratuity is payable to the widow, children, next of kin or dependants of any deceased officer or servant of the Council under any by-laws or rules of that Council or under any scheme or fund established under the Local Government Service Ordinance, the Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public

Administration, grant out of the Municipal Fund to such widow, children, next of kin or dependants a pension, annuity or gratuity.

Provided, however, that in a case where the date following the expiry of the period of ten years falls on a date later than the first day of a month, the date of commencement of such pension shall be the first day of the following month.

[§2, 18 of 1979.]

[§ 2, Law 5 of 1975.]

In this section, " member of the Local Government Service " means member of the Local Government Service constituted by—

- (a) the Local Government Service Ordinance, No. 43 of 1945 ;* or
- (b) the Local Government Service Act, No. 18 of 1969 ;† or
- (c) the Local Government Service Law.

(g) subject to any special appropriation made by the Minister, all grants allocated to the Council by the Minister;

(h) all sums otherwise accruing to the Council in the course of the exercise of its powers and duties.

PART IX

THE MUNICIPAL FUND

Municipal Fund and its constituents.

185. (1) Every Municipal Council for its general financial purposes shall establish a Municipal Fund.

(2) There shall be payable into the Municipal Fund—

- (a) all rates, taxes, duties, fees and other charges levied by the Council by virtue of this Ordinance or of any other written law;
- (b) all fines levied and penalties recovered under the authority of this Ordinance or under any enactments specified in the tabular statement in section 163 or in respect of any offence to which the President extends the jurisdiction of the Municipal Magistrate;
- (c) the amount of all stamp duties and fees specified in the Second Schedule;
- (d) all sums realized by sales, leases or other transactions of the Council;
- (e) all revenue derived by the Council from any property vested in the Council, or by the administration of any public service;
- (f) all sums and all sources of revenue, from time to time, appropriated or made over to the Council by Parliament, whether by resolution or otherwise;

186. All moneys received by a Municipal Council and payable into the Municipal Fund shall be lodged with an approved bank, and shall be credited to an account entitled " the Municipal Fund ".
Moneys received by the Council to be lodged with the bank.

In this section " approved bank *" means a bank specified by the Minister by Order published in the Gazette as a bank in which the moneys of any Municipal Council, Urban Council or Town Council may be deposited.

187. Any part of the Municipal Fund may be invested by a Municipal Council in any one or more of the following securities and in no others :—
Power to invest any part of the Municipal Fund.

- (a) stock or other securities of the Government of Sri Lanka;
- (b) debentures issued by the State Mortgage and Investment Bank ;
- (c) any other securities guaranteed by the Government of Sri Lanka.

188. (1) There shall be paid out of the Municipal Fund established by each Municipal Council—
Application of Municipal Fund.

- (a) all sums payable by the Council in respect of any liability incurred under the Workmen's Compensation Ordinance;
- (b) all sums payable by the Council as premium for the insurance of any property belonging to or vested in the Council, or for insurance against any liability that may be incurred by the Council under the Workmen's Compensation Ordinance;

* Chapter 264 of the 1956 Revised Edition of the Legislative Enactments, is repealed by Act No. 18 of 1969.
 † Repealed by Law No. 16 of 1974.

- (c) all sums which the Council is authorized or required to refund by or under this Ordinance or any other written law;
- (d) all expenses incurred by the Council in the construction, maintenance, extension and alteration of streets, bridges, causeways and the like; the acquisition of land necessary for any of these purposes, the lighting of public streets, places and buildings ; the regulation of traffic, and the prevention and removal of obstructions in public streets or places; the naming of streets, the numbering of houses, the planting of trees in streets and the erection and maintenance of shelters in streets for the use of passengers by omnibus; the regulation of buildings, the removal of undue projections, and the control, supervision and removal of dangerous places, buildings, trades and practices;
- (e) all expenses incurred by the Council .in the construction, maintenance, supervision, and control of markets, bathing and washing places, quarantine and disinfecting stations, segregation camps, hospitals, cattle marts and slaughterhouses, latrines, privies, urinals, drains and sewerage, drainage works and other works connected therewith ; any form of public vehicular service including tramways; waterworks, drinking fountains, tanks, wells, parks and gardens; the reclamation of unhealthy localities, and other sanitary measures of a like nature; and the acquisition of land required for any of the above-mentioned purposes;
- (ee) all sums voted by the Council to defray the cost of refreshments served to Councillors, officers and servants of the Council attending any meeting of the Council or any committee of the Council;
- (f) all expenses incurred by the Council in the establishment and maintenance of housing schemes in general and in particular, the acquisition, construction, maintenance, enlargement, improvement, alteration, repair, operation, management, and letting of dwellings, for the use of the working classes, and of any buildings for the use or convenience of the inhabitants of such dwellings, and the doing of any act or thing necessary or expedient to facilitate any such undertaking, and the acquisition of land or buildings for any such purpose;
- (g) all expenses incurred by the Council for the cleaning and watering of streets and drains, scavenging; the removal of night-soil and excessive or noxious vegetation ; and generally the abatement of all nuisances;
- (h) all sums payable by the Council for the maintenance of schools ;
- (i) all expenses incurred by the Council in the establishment and maintenance of Municipal services, the construction, purchase, and maintenance of all buildings required in order to give effect to the purposes of this Ordinance, the survey of houses and lands, and all other works, matters, and services necessary for or conducive to public safety, health, or convenience ;
- (j) all expenses incurred by the Council in the establishment and maintenance of maternity and child-welfare services, the training of midwives for the purposes of any maternity service established by the Council, and charities or measures for the relief of distress caused by rain, floods, fire, earthquake, famine, or epidemics;
- (k) all contributions voted by the Council for the purposes of recreation or entertainment in the Municipality or towards the

[§ 5, 15 of 1957.]

support of any law library established within the Municipality, or for the relief of the poor or the support of any charitable or benevolent society or institution, or for any fund or scheme constituted or established for the purpose of granting relief or assistance to officers or servants of the Council in cases of sickness, indebtedness or distress ;

- (l) such contributions not exceeding in the aggregate one thousand rupees in any year as may be voted by the Council towards the cost of any public ceremonies, and any other contributions voted by the Council, with the prior sanction in writing of the Minister, towards the cost of any such ceremonies;
- (m) all sums allocated by the Council to the Mayor to be expended at his discretion on civic receptions or the celebration or observance of any event or occasion of public interest;
- (mm) all allowances payable to the Mayor, Deputy Mayor and Councillors at such rates as may be prescribed by regulations made under section 289;
- (n) all expenses incurred by the Council in the maintenance of a fire brigade, and the protection of life and property from fire;
- (o) all expenses incurred by the Council in the establishment and maintenance of any form of public service which the Council is authorized to establish, maintain or provide by or under this Ordinance or any other written law;
- (p) the expenses incurred by the Council in the establishment and maintenance of public libraries within the Municipality;
- (q) all expenses incurred by or on behalf of the Municipal Commissioner in the exercise of his powers and the

performance of his duties as a local authority under the Petroleum Ordinance;

- (r) all expenses incurred by the Council or by the Mayor or the Commissioner or any officer of the Council on behalf of the Council in the exercise of its or his powers and the discharge of its or his functions and duties under this Ordinance or any other written law or any by-law, rule or regulation made thereunder; and
- (s) all sums which are required or authorized to be paid out of the fund by or under this Ordinance or any other written law.

[§ 8, 48 of 1971.]

(2) The Minister may sanction any expenditure not authorized by the terms of paragraph (1) of subsection (I) which may be or may have been in good faith incurred by mistake or inadvertence in supposed pursuance of that paragraph.

(3) The Municipal Council of Colombo shall pay annually, out of the Municipal Fund, to the committee of the Colombo Law Library a sum of one thousand five hundred rupees.

[§ 105, Law 24 of 1977.]

189. All orders or cheques for the payment of moneys out of the Municipal Fund shall be signed by two officers specially authorized by the Council for that purpose, and the bank in which the fund is established may pay all orders or cheques against the said fund which are so signed,

Orders, cheques, &c., for payment out of the fund.

190. At each general meeting of a Municipal Council, the Mayor shall submit to the Council a statement of receipts and disbursements on account of the Municipal Fund from the close of the previous year up to the close of the month preceding that in which the meeting takes place. Such statement, together with the minutes of the proceedings of the meeting, shall be forwarded forthwith to the Commissioner of Local Government, and shall be published in the Gazette.

Statement of receipts, disbursements, &c., on account of the fund.

PART X

LOANS

Purposes for which money may be borrowed.

191. Subject to the provisions of section 192, a Municipal Council may, with the sanction of the Minister, borrow such sums as may be required for any of the following purposes:—

- (a) the carrying out of any work of a permanent character undertaken under the provisions of this Ordinance or any repealed enactment;
- (b) the establishment, completion, improvement or development, of any public service undertaken as aforesaid ;
- (c) the acquisition of any land or building required for the purposes of or in connexion with any such work or public service ;
- (d) any machinery, plant or equipment required for the purposes of any such public service:

Provided that the sanction of the Minister shall not be necessary for borrowing any such sum if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed.

Limitation of borrowing powers.

192. The amount at any time outstanding in respect of all loans raised by any Municipal Council under the authority of this Part shall not exceed in the aggregate ten times the fair average annual income received by the Council from all rates, taxes, properties, and other sources of income for the preceding five years, or, in the case of any Municipal Council which has not been in existence for five years, ten times its income for one year as appraised by the Council, subject to the approval of the Minister:

Provided that in any case in which the liabilities of any Municipal Council in respect of its loans are wholly or mainly due

to the Government of Sri Lanka, the Minister may, by Order published in the Gazette, authorize the limit prescribed by this section to be exceeded to such extent as may be stated in the Order.

193. Where a Municipal Council is authorized by or under this Part to borrow money, the Council may, subject to the provisions of this Part, raise the money either—

Modes of borrowing.

by mortgage; or

- (b) with the consent of the Minister, by debentures issued under this Ordinance; or
- (c) with the consent of the Minister, by housing bonds issued under this Ordinance in any case where the money is to be raised for the purpose of a housing scheme.

194. (1) All moneys borrowed by a Municipal Council under this Part shall be charged indifferently on all the rates, taxes, property and revenue of the Council.

Security for borrowing and priority of securities.

(2) Subject to the provisions of this section, all securities created by a Municipal Council under this Part shall rank equally without any priority.

(3) Nothing in this section shall

- (a) apply to any money borrowed under this Part by way of temporary loan or overdraft without security; or
- (b) affect any priority existing at, or any right to priority conferred by a security created before, the date of the commencement of this Ordinance.

GENERAL PROVISIONS AS TO LOANS

195. (1) Every sum borrowed by a Municipal Council under this Part shall be repaid within such period as the Council, with the sanction of the Minister, may determine.

Period for repayment of moneys borrowed.

(2) Where any sum is borrowed by a Municipal Council under this Part for the purpose of meeting expenditure on the construction of new, or the extension or the alteration of existing works forming or to form part of an undertaking of a revenue-producing character, it shall be lawful for any annual provision required to be made by the Council for the repayment of the sum so borrowed to be suspended for such period (not being a period longer than the period during which the expenditure remains unremunerative, or the period of five years from the commencement of the financial year next after that in which the expenditure commences to be incurred, whichever is shorter) and subject to such conditions as the Minister may determine.

196. (1) The Mayor of a Municipal Council shall, within one month after being requested so to do by the Minister, transmit to the Minister a return showing the provision made by the Council for the repayment of moneys borrowed by the Council under this Part.

(2) The return shall show such particulars, shall be made up to such date and shall be in such form, as the Minister may require, and shall be certified by the officer whose duty it is to keep the accounts of the Council.

(3) If it appears to the Minister from any return made under this section or otherwise that the Council—

- (a) has failed to pay any instalment or annual instalment required to be paid; or
- (b) has failed to appropriate to the discharge of any loan any sum required to be so appropriated ; or
- (c) has failed to set apart any sum required for a sinking fund ; or
- (d) has applied any portion of a sinking fund to a purpose other than those authorized by this Part or any regulation made thereunder,

the Minister may by order direct that such sum as is specified in the order, not

exceeding the amount in respect of which the default has been made, shall be paid or applied in the manner and by the date set out in the order, and the Council shall notify the Minister as soon as the order has been complied with. The Council shall, if it is necessary to do so for the purpose of complying with any such order, make payments out of the Municipal Fund.

(4) An order made under the last preceding subsection may be enforced at the instance of the Minister by mandamus.

(5) If a return required to be made under this section is not made, the person in default shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two hundred and fifty rupees, and notwithstanding the recovery of any such fine the making of the return may be enforced, at the instance of the Minister, by mandamus.

197. The balance of any money borrowed by a Municipal Council under this Part and not required for the purpose for which the money was borrowed may, with the consent of the Minister, and subject to any conditions which he may impose, be applied to any other purpose for which money may be borrowed under this Part:

Balance of unexpended moneys.

Provided that such consent and conditions shall not be necessary if such money was borrowed, under the proviso to section 191, without the sanction of the Minister.

198. A person lending money to a Municipal Council under this Part shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

Lender relieved from certain inquiries.

PROVISIONS RELATING TO DEBENTURES AND HOUSING BONDS

199. For the purposes of any borrowing by a Municipal Council by means of an issue of debentures or housing bonds under this Part, debentures or housing

Creation, &c., of debentures and housing bonds.

bonds may be created, issued, transferred, dealt with and redeemed in such manner as may be prescribed.

way of mortgage, the sinking fund shall be formed and maintained either—

PROVISIONS RELATING TO MORTGAGES

Form of mortgage.

200. A mortgage created under this Part shall be by deed made in such form as may be prescribed or in a form to the like effect.

(a) by payment, out of the Municipal Fund, to the sinking fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed ; or

Transfer of mortgage.

201. The person entitled to a mortgage created by a Municipal Council under this Part may transfer it by deed made in such form as may be prescribed or in a form to the like effect.

(b) by payment, out of the Municipal Fund, to the sinking fund throughout the fixed period of such equal annual sums as with accumulations at a rate not exceeding such rate as may be prescribed, or such other rate as the Minister may in any particular case approve, will be sufficient to pay off within that period the moneys for which the sinking fund is formed.

Receipts on behalf of joint holders and minors.

202. (1) Where two or more persons are jointly entitled to a mortgage created by a Municipal Council under this Part, any one of those persons may give an effectual receipt for any interest thereon, unless notice in writing to the contrary has been given to the Council by any other of those persons.

In this Part, a sinking fund formed under paragraph (a) of this subsection is referred to as a " non-accumulating sinking fund ", and a sinking fund formed under paragraph (b) thereof as an " accumulating sinking fund ".

(2) The receipt of the guardian of a minor shall be a sufficient discharge to a Municipal Council for any money payable to the minor in respect of a mortgage created by the Council under this Part.

Repayment of moneys borrowed on mortgage.

203. (1) Every sum borrowed under this Part by a Municipal Council by way of mortgage shall be paid off either by equal yearly or half-yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them.

(2) Every sum paid to a sinking fund shall, unless applied in repayment of the moneys for the repayment of which the sinking fund is formed, be immediately invested, with the approval of the Minister, in the securities prescribed in section 20 of the Trusts Ordinance for the investment of trust property which consists of money.

(2) Subject to the provisions of subsection (2) of section 195, the payment of the first instalment or the first payment to the sinking fund shall be made within such period as may be prescribed.

(3) In the case of an accumulating sinking fund, the interest received in any year from the investment of the sums set apart for the purposes of the sinking fund shall be paid into the Municipal Fund, but the contribution to be made to the sinking fund out of the Municipal Fund shall in that year be increased by a sum equal to the interest that would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate *per centum* per annum on which the annual payments to the sinking fund are based.

(3) All instalments referred to in subsection (1) may be paid by the Council out of the Municipal Fund.

Sinking fund-

204. (1) If a Municipal Council determines to repay by means of a sinking fund any sums borrowed under this Part by

(4) A Municipal Council may at any time apply the whole or any part of a sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund was formed :

Provided that, in the case of an accumulating sinking fund, the Council shall pay, out of the Municipal Fund, into the sinking fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate *per centum* per annum on which the annual payments to the sinking fund are based.

(5) Any surplus of a sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose, as the Council, with the consent of the Minister, may determine.

Adjustments of sinking fund.

205. (1) If at any time it appears to a Municipal Council that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part, and, in case of an accumulating sinking fund, with the accumulations thereon, will not be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed, the Council shall, either temporarily or permanently, make such increased payments, out of the Municipal Fund, to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Minister that any such increase is necessary, the Council shall increase the payments out of the Municipal Fund to such extent as he may direct.

(2) If the Council desire to accelerate the repayment of any moneys borrowed under this Part by way of mortgage, the Council may increase the amounts payable, out of the Municipal Fund, to the sinking fund.

(3) If the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part, and also, in the case of an accumulating sinking fund, together with the accumulations thereon, will in the

opinion of the Minister be more than sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed, the Council may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed.

(4) If at any time the amount in a sinking fund, together with the accumulations thereon in the case of an accumulating sinking fund, will in the opinion of the Minister be sufficient to repay the moneys for the repayment of which the sinking fund is formed within the fixed period the Minister may authorize the Council to suspend the annual payments, out of the Municipal Fund, to the sinking fund until the Minister otherwise directs.

SUPPLEMENTARY BORROWING POWERS

206. (1) Subject to the provisions of section 192, a Municipal Council may, with the consent of the Minister, borrow by way of temporary loan or overdraft from a bank or otherwise, any sums which the Council may temporarily require—

Temporary loans, &c.

(a) for the purpose of defraying expenses pending the receipt of moneys receivable by the Council in respect of the period of account in which those expenses are chargeable and taken into account in the estimates made by the Council for that period ;

(b) for the purpose of defraying, pending the raising of a loan which the Council has been authorized to raise under this Part, expenses intended to be defrayed by means of the loan:

Provided that the consent of the Minister shall not be necessary for borrowing any such sum if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed.

(2) Where money is borrowed in pursuance of paragraph (h) of subsection (1) and subsequently such a loan as is mentioned in that paragraph is raised, then for the purposes of the provisions of this Part regulating the repayment of that loan, the loan shall, to the extent of the sum borrowed under the said paragraph, be deemed to have been raised at the time when the borrowing under the said paragraph took place.

- (ii) by means of a sinking fund;
- (iii) out of moneys derived from the sale of land ;
- (iv) out of capital moneys properly applicable to the purpose of the repayment, other than moneys borrowed for that purpose.

Power to reborrow.

207. (1) Subject to the provisions of section 192, a Municipal Council may, with the consent of the Minister, borrow for the purpose of—

- (a) paying off any moneys previously borrowed under this Part by the Council and which are intended to be repaid forthwith; or
- (b) replacing moneys which, during the preceding twelve months, have been temporarily applied from other moneys of the Council in repaying moneys previously borrowed, and which at the time of such repayment it was intended to replace by borrowed moneys:

Provided that the consent of the Minister shall not be necessary for borrowing any sum under the preceding provisions of this subsection if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed ;

Provided further that a Municipal Council shall not have power to borrow under this section—

- (a) for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys; or
- (b) for the purpose of replacing any moneys previously borrowed which have been repaid—
 - (i) by instalments or annual payments;

(2) Any moneys borrowed under this section shall, for the purposes of repayment, be deemed to form part of the original loan, and shall be repaid within that portion of the fixed period which remain unexpired, and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section:

Provided that the Minister may, upon application made to him for that purpose, extend the period for the repayment of the moneys borrowed under this section so as to expire on such date as he may think fit.

207A. If the Municipal Council fails to sanction the raising of a loan for the purpose of fulfilling any duty imposed on the Council or carrying out any work which the Mayor considers to be necessary, the Mayor may, with the approval of the Minister, raise such loan and may exercise all the powers vested in the Council under the provisions of this Part as though such powers were conferred by this Part on the Mayor.

When Mayor may exercise power of Council relating to raising of loans, [§ 106. Law 24 of 1977.]

REGULATIONS

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

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 all matters stated or required to be prescribed, and, in the case of loans raised by the issue of debentures or housing bonds under this Part, for or in respect of the following additional matters:—

- (a) the terms of the issue of such loans ;

- (b) the discharge of such loans;
- (c) the security for such loans;
- (d) the extension or variation of the times within which such loans may be discharged;
- (e) the consent of owners under disability;
- (f) the application of the enactments relating to stamp duties and to cheques;
- (g) the disposal of unclaimed dividends.

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

(4) Every regulation shall upon notification of such approval be as valid and effectual as if it were herein enacted.

SAVINGS

Savings.

209. Nothing in the provisions of this Part shall, unless there is specific provision in this Ordinance to that effect, apply to any loans raised by a Municipal Council under any other Part or under any other written law or under any repealed enactment; and in the case of any loan raised by a Municipal Council under any repealed enactment, the provisions of such repealed enactment relating to loans shall, notwithstanding such repeal, apply to such loan in like manner and to the same extent as they would have applied if that enactment had not been so repealed.

INTERPRETATION

Interpretation.

210. For the purposes of this Part, "fixed period", in relation to any moneys borrowed under this Part, means the period originally determined under section 195 (1) as the period within which such moneys are to be repaid.

PART XI

BUDGET, ESTIMATES, ACCOUNTS, AND CONTRACTS

BUDGET

211. After consultation with the several standing committees, the Mayor of each Municipal Council shall, on a date to be fixed by him in each year, submit to the Council a budget containing an estimate of the available Municipal income and details of the proposed expenditure for the ensuing financial year.

Budget.

212. Every budget of a Municipal Council shall—

Budget to be circulated and open to inspection.

- (a) be circulated among the Councillors at least seven days prior to the date referred to in section 211; and
- (b) be open to inspection at the Municipal office or at such other place as the Mayor may determine, for seven days prior to the said date and notice thereof shall be given by the Mayor in the Gazette and in two or more of the newspapers circulating within the Municipality.

213. Every Municipal Council shall finally consider the budget at a special meeting to be called in the last month of the financial year.

Final consideration of budget.

214. (1) The Mayor may at any time prepare a supplementary budget and lay it before the Council.

Supplementary budget

- (2) Every supplementary budget shall—
 - (a) be circulated among the Councillors at least seven days prior to the meeting of the Council before which it is laid ; and
 - (b) be open to public inspection at the Municipal office or at such other place as the Mayor may determine for seven days prior to the said meeting and notice thereof shall be given by the Mayor in the Gazette and in two or more of the newspapers circulating within the Municipality.

Power of Council with regard to budget and supplementary budget.

215. It shall be in the discretion of a Municipal Council to pass, modify, or reject all or any of the items in any budget or supplementary budget or to add any item thereto.

Minister within six weeks of the date when the same were first submitted to the Council.

Mayor's powers with regard to budget, [§ 107, Law 24 of 1977.]

215A. If the Municipal Council modifies or rejects all or any of the items in any budget or supplementary budget or adds any item thereto and the Mayor does not agree with any such decision of the Council, he shall re-submit the budget or supplementary budget to the Council for further consideration. Where a budget or supplementary budget is not passed by the Council within two weeks after it is re-submitted, such budget or supplementary budget shall, notwithstanding that it has not been passed by the Council, be deemed to be the duly adopted budget or supplementary budget of the Council.

219. The accounts of every Municipal Council shall be audited by the Auditor-General or by such officers as may be authorized by him, and he or they shall maintain a continuous audit of such accounts.

Audit of accounts.

220. For the purposes of any audit and examination of accounts under this Ordinance, the auditor or auditors appointed by or under section 219 may, by summons in writing, require the production before him or them of all books, deeds, contracts, accounts, vouchers and the other documents and papers which he or they may deem necessary, and may require any person holding or accountable for any such book, deeds, contracts, accounts, vouchers, documents or papers to appear before him or them at any such audit and examination or adjournment thereof, and to make and sign a declaration with respect to the same.

Powers of auditors-

Reduction or increase of expenditure. [§ 108, Law 24 of 1977.]

216. The Mayor may in case of necessity, during any year reduce or increase the expenditure under any head of the budget or of any supplementary budget, or may transfer the moneys assigned under one head of expenditure to another head :

Provided that the total amount of expenditure sanctioned by the budget or by any supplementary budget passed by the Council shall not be exceeded.

221. If any person neglects or refuses to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign a declaration, when required to do so under section 220, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees and to an additional fine not exceeding fifty rupees for each day during which such failure or neglect is continued after he has been convicted of such offence.

Penalty.

Lapse of authority for expenditure sanctioned by budget. [§ 109, Law 24 of 1977.]

217. The authority for expenditure conveyed by any budget or supplementary budget passed by a Municipal Council or deemed to be the duly adopted budget or supplementary budget of such Council shall expire at the end of the financial year to which such budget relates.

222. The auditor or auditors shall submit a monthly report of his or their audit to the Council, and shall also submit an annual report of such audit to the Council and a duplicate of such annual report to the Minister as soon as possible after the close of the financial year.

Auditors' report

ACCOUNTS

Annual administration report.

218. The Mayor shall, as soon as possible after the close of each financial year, prepare a detailed report of his administration during the previous year, with a statement showing the nature and amount of receipts and disbursements on account of the Municipal Fund during that year. Such report and statement shall be submitted to the Council, and with any resolutions that may be passed thereon by the Council, shall be submitted to the

223. (I) The Minister may by written order direct the auditor or auditors of the Municipal accounts appointed by or under section 219 to call the attention of the Council to any material defect, impropriety or irregularity in the expenditure of moneys by, or in the recovery of moneys due to, the Council or in the Municipal accounts.

Irregularities in accounts-

(2) The Council shall report to the Minister as soon as possible the action which it has taken, or which it proposes to take, in respect of any such defect, impropriety or irregularity.

(3) The Minister may make such orders as he thinks fit upon such report, and such orders shall be final and shall be complied with by the Council and all other persons.

Powers of Council in relation to auditors.

224. A Municipal Council may, from time to time, require the auditor or auditors of its accounts to furnish information concerning the extent, method or progress of any audit or to make any special audit.

Remuneration of auditors.

225. Every Municipal Council shall, from time to time, pay out of the Municipal Fund to the Deputy Secretary to the Treasury as remuneration to the auditor or auditors of its accounts such sums as the Minister in charge of the subject of Finance may certify as reasonable for their services.

Surcharges and appeals therefrom.

226. (1) Every auditor of the Municipal accounts of a Municipal Council, acting in pursuance of the powers conferred upon him by this Ordinance or any other enactment, shall disallow every item of the Municipal accounts 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:

Provided that no expenses paid by the Council shall be disallowed by any such auditor if such expenses have been sanctioned by the Minister by virtue of power conferred on him in that behalf by any provision of this Ordinance.

[§6, 15 of 1957.]

(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:

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) Upon any such appeal, the Minister shall decide the same according to the merits of the case, and 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 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 under this section may forthwith be recovered by the Commissioner 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 Commissioner 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 Commissioner 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.

CONTRACTS

Contracts involving expenditure not exceeding one thousand five hundred rupees.

227. The Commissioner may, on behalf of the Council, enter into any contract for the execution or performance of any work or service, or for the supply of any articles or materials, involving an estimated expenditure of not more than one thousand five hundred rupees, if the contract will not or is not expected to endure for more than one year. and the necessary funds have been provided for the same in a sanctioned budget or by supplementary budget.

Contracts involving expenditure exceeding one thousand five hundred rupees.

228. Any contract for the execution or performance of any work or service or for the supply of any articles or materials for a Municipal Council, which involves an estimated expenditure of more than one thousand five hundred rupees, or which will or is expected to endure for more than one year, shall, if entered into in Sri Lanka, be reduced to writing, and signed by the Mayor and the Commissioner on behalf of the Council, and sealed with the common seal of the Council, and, in addition to such other matters as may be deemed necessary for inclusion in any such contract, shall specify—

- (a) the work or services to be executed or performed, or the articles or materials to be supplied ;
- (b) the price or rate to be paid for the work, service, articles or materials ;
- (c) the time or times within which the work or service is to be completed, or the articles or materials are to be supplied ; and

- (d) any penalty or penalties to be imposed in case of breach.

229. (1) Before any such contract as is referred to in section 228 is entered into— Tenders.

- (a) the Commissioner shall, if the Council so directs, take sufficient security for the due performance of the contract;
- (b) the Commissioner shall, unless otherwise authorized by a resolution of the Council in any particular case, call for tenders by advertisement;
- (c) the invitations to tender and the tenders, if any, or copies thereof, shall be laid before the Council which shall either accept one of such tenders, or reject all of them; and
- (d) the contract shall be sanctioned by the Council, after satisfying itself that the necessary funds have been provided for the same in a sanctioned budget or supplementary budget.

(2) If the Council rejects any or all the tenders laid before the Council or fails to sanction the contract referred to in subsection (1), the Mayor may, with the approval of the Minister, enter into such contract notwithstanding the provisions of paragraphs (c) and (d) of subsection (1) of this section. [§ 110, Law 24 of 1977.]

PART XII

RATES AND TAXES

***230.** (1) Subject to the provisions hereinafter contained, every Municipal Council shall, from time to time, so often as it thinks necessary, make and assess, with the sanction of the Minister, any rate or rates on the annual value of all houses and buildings of every description, and of all lands and tenements whatsoever within the Municipality. Assessment of properly.

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

[§2.8 of 1967.]

(IA) In pursuance of the powers of a Municipal Council under subsection (1), any Council may, with the sanction of the Minister, impose different rates for different areas or parts of the Municipality according to the services provided by such Council for each such area or part.

Mayor, with the sanction of the Council, may direct, and

(d) shall be assessed and levied in the manner provided by this Ordinance or by any by-law made thereunder;

[§2.57 of 1979.]

(IB) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the rates imposed by the Council under this section in any past year and any costs incurred for the purpose of recovering those rates where—

Provided that—

(i) no house, building, land, or tenement shall pay less than one rupee a year in respect of such rate or rates ;

(a) he is of the opinion that such rates have been imposed without the provision of adequate services ; or

(ii) all houses, buildings, lands, or tenements which are situated within an area not benefited by the conservancy service provided by the Council shall be exempt from any portion of such rate or rates that is declared by a resolution of the Council to be levied for the purpose of providing such service; and

(b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case.

(iii) all school buildings, buildings wholly or mainly used for religious purposes, public libraries, burial and cremation grounds, and buildings in charge of military sentries shall be exempted from the payment of such rate or rates.

[§ 2, 57 of 1979.]

(IC) Where the Minister has under subsection (IB) authorized the waiver of the whole or part of any rates imposed and any costs incurred, the Council shall—

(3) Every Municipal Council shall allow a discount of ten *per centum* of the amount of any annual rate payable under this section if such rate is paid on or before the thirty-first day of January of that year or where such rate is payable in instalments a Municipal Council shall allow a discount of five *per centum* of the amount of instalment of rate due if such amount is paid within the first one month of the period for which the instalment of rate is due. [§3.42 of 1979.]

(a) where such rates and any costs incurred have been paid, set off such amount of the rates and costs waived, against future rates due on the property in respect of which such rates have been paid ;

(b) where such rates and any costs incurred have not been paid, waive the amount of such rates and costs.

No person shall have a right to a refund of such amount.

(2) Such rate or rates—

*231. All houses, buildings, lands, and tenements within the Municipality belonging to the State, and leased or let by the State to any person, shall be liable to be assessed in respect of the rate or rates leviable under section 230 ; and every lessee or occupier of any such premises shall be liable to pay, and shall pay to the Council, the rate or rates leviable in respect of the house, building, land, or tenement so held or occupied.

Assessment of state property.

(a) shall endure for any period not exceeding twelve months,

(b) shall not exceed in the aggregate the maximum rate or rates from time to time determined by the Minister,

(c) shall be payable by such instalments and at such times as the

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

Property of the State not liable to seizure and sale.

***232.** No property whatever of the State, whether movable or immovable, shall be liable to be seized or sold for the recovery of any rate or rates, tax or taxes, which may be due from any person holding, occupying, or enjoying any house, building, land, or tenement the property of the State, under any agreement, contract, or permit, either express or implied, with or from the State.

furnish returns of the rent or annual value thereof, and for the like purpose it shall be lawful for any person authorized in that behalf by the Council at any time between sunrise and sunset, to enter and inspect and survey such house, building, land, or tenement.

Division or consolidation of property for assessment-

†233. (1) The Council may, from time to time, as often as it may think necessary for the purpose of assessment, divide any house, building, land, or tenement, and consolidate any separate houses, buildings, lands, or tenements whatsoever within the Municipality, and assess, in respect of any rate or rates leviable under this Ordinance, each such divided portion separately, and each such consolidated premises as a whole :

(2) It shall be the duty of the owner of any house, building, land, or tenement to notify in writing to the Council the completion of any new building or of any addition to any existing building, intended for occupation.

Provided that in the case of any such consolidation the consolidated premises shall be assessed at the aggregate annual value of the several houses, buildings, lands, or tenements of which such premises are composed.

(3) Every person who—

(a) fails or neglects to furnish the return herein specified within seven days from the day on which he is required to do so ; or

(b) knowingly makes a false or incorrect return; or

(c) hinders, obstructs, or prevents any person authorized as aforesaid from entering or inspecting or, if need be, surveying any such house, building, land, or tenement; or

(d) fails to notify the completion of any new building or of any addition to an existing building within fourteen days from the date of such completion,

(2) The Council shall cause a notice of such division or consolidation to be given to every occupier, whether he be proprietor, joint proprietor or tenant, of each such house, building, land, or tenement.

shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees.

(3) Nothing in this section shall be deemed to affect the requirements of section 235 regarding the service of notice of assessment.

(4) The assessed annual value of any premises so dealt with shall not, by reason of such division or consolidation, be increased or reduced for the year in which the division or consolidation is made.

†235. (1) The Council shall cause to be kept a book, to be called the " Assessment Book ", in which the annual value of each house, building, land, or tenement within the Municipality shall be entered every year, and shall cause to be given public notice thereof and the place where the assessment book may be inspected.

Valuation of property.

Return for purposes of valuation.

†234. (1) In order to enable a Municipal Council to assess the annual value of any house, building, land, or tenement liable to be rated, the Council may require the owner and occupier of such house, building, land, or tenement to

(2) Every owner or occupier of any house, building, land, or tenement, or his authorized agent, shall be permitted free of

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

† Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

charge, to inspect any portion of the said assessment book which relates to his premises.

(3) The Council shall cause a notice of assessment in Sinhala, Tamil and English to be served on or left at the premises of every occupier, whether he be proprietor, joint proprietor, or tenant of the house, building, land, or tenement assessed. The said notice shall be substantially in the form set out in the Third Schedule, and there shall be appended thereto a demand of payment of the rate or rates leviable within such time and in such proportions as the Council may deem reasonable.

(4) Such notice shall further intimate that written objections to the assessment will be received at the Municipal office within one month from the date of service of the notice.

(5) The Council shall cause to be kept a book to be called the "Book of Objections", and cause every objection to an assessment to be registered therein. The Council shall cause to be given notice in writing to each objector of the day on which and the place and the time at which his objections will be investigated.

(6) At the time and place so fixed the Council shall cause to be investigated the objections, in the presence of the objector (or an agent authorized by him in writing) if each objector or agent appears or in his absence if such objector or agent does not appear. Such investigation may be adjourned, from time to time, for reasonable cause.

(7) When any objection to an assessment is disposed of, the Council shall cause the decision thereon to be notified to the objector, and such decision shall be noted in the book of objections, and any necessary amendment shall be made in the assessment book.

(8) Every assessment against which no objection is taken shall be final for the year.

***236.** (1) Every person who is aggrieved by the decision under section 235 with regard to the assessment of any house, building, land, or tenement, may, within thirty days of receiving the notification of the decision, institute an action objecting to such decision in the Primary Court having jurisdiction in the place where such house, building, land, or tenement, is situated, if the amount of the rate or rates on the annual value of such house, building, land or tenement, or in the case of a consolidation, on the annual value of the houses, buildings, lands, or tenements, so consolidated, does not exceed one thousand five hundred rupees, and in the District Court having such jurisdiction where such amount exceeds the sum of one thousand five hundred rupees.

Procedure in case of objection to assessment. &c.

(2) Upon the trial of any action under this section, the plaintiff shall not be allowed to adduce evidence of any ground of objection which is not stated in his written objection to the assessment.

(3) Every such court shall hear and determine such action according to the procedure prescribed for such court by the law for the time being in force regulating the hearing and determination of actions brought in such court, and the decision of such court shall in all cases be subject to appeal to the Court of Appeal.

(4) Every such appeal shall be governed by the provisions of Chapter LVIII of the Civil Procedure Code, or by any enactment hereafter enacted regulating the making of appeals to the Court of Appeal from any judgment, decree, or order of a Primary Court or a District Court.

(5) Neither the institution of such action nor any appeal therein shall stay the levying of the whole or any part of such rate or rates, and the excess, if any, collected shall be returned according to the decision of such Primary Court or District Court if there be no appeal, or according to the final decision of the Court of Appeal in case of appeal.

***237.** (1) Where physical alterations affecting the annual value of any house, building, land, or tenement are made after the assessment in respect thereof for any year has become final by virtue of the

Revision of assessment on alteration of property affecting annual value.

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

preceding sections, a Municipal Council may, notwithstanding anything to the contrary contained in the said sections, at any time prepare a new assessment for such premises.

(2) Every such new assessment shall come into force from the first day of the month following that in which it is entered in the assessment book :

Provided always that such new assessment shall as far as possible be made in the manner prescribed by the preceding sections and be subject to the objections, investigations, actions, and appeals referred to therein.

Assessments of annual values. [§ 3, 57 of 1979.]

238. (1) A Municipal Council shall prepare a new assessment only when so directed by the Minister, generally or specially. The Minister may direct the preparation of a new assessment in respect of any class or species of immovable property or all immovable property in any Municipal Council area having regard to the provision of new services or the improvement of existing services in such Municipal Council area. Except when a new assessment is carried out on the directions of the Minister, the Council shall adopt the valuation or assessment for the preceding year with such alterations as may, in particular cases, be deemed necessary, as the valuation or assessment for the year following:

Provided always that notice of such valuation and assessment shall be given in the prescribed manner.

(2) The Minister may on representations made or of his own volition direct the revision of the assessment of the annual values in respect of any past year in such manner as he may deem fit having regard to the services that had been provided at the time.

(3) Where there has been a reduction of the rates as a result of the revision of

assessments on a direction of the Minister under subsection (2), the Council shall—

- (a) where such rates have been paid, set off the amount of such rates and any costs incurred for the purpose of recovering those rates so reduced, against future rates due on the property in respect of which such rates have been paid ; or
- (b) where such rates have not been paid, waive the amount of such rates and any costs incurred.

No person shall have a right to a refund of such amount.

***239.** The Council shall have power and authority at any time to revise any assessment, increasing or decreasing the same as it may see fit, and to fix the date upon which the revised assessment shall come into force.

Revision of assessment and remission of rates in certain cases.

***240.** (1) If any building, other than a building containing furniture, is or remains untenanted, a proportionate remission of the rates and taxes payable in respect of such building may be allowed for the period during which the building is or remains untenanted.

Remission of rates in cases of non-tenancy.

(2) If any building containing furniture and registered with the Council as a building intended to be let as a furnished building is or remains untenanted a proportionate remission of one-half of the rates and taxes payable in respect of such building may be allowed for the period during which such building is or remains untenanted.

(3) The period for which a remission is allowed under subsections (1) and (2) shall in respect of any building commence on the day on which the Council receives a written notice of its being untenanted and terminate on the date on which it is reoccupied :

Provided that the said period shall terminate on a date one month prior to the said date of reoccupation if within three days of the reoccupation notice thereof is not given to the Council. Every notice under

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

this subsection shall contain an address to which all communications arising therefrom may be posted.

(4) When with reference to any claim for remission under this section a dispute arises regarding the period during which any building is or remains untenanted, a written notice of the decision of the Council thereon shall be posted to the last of the addresses given under subsection (3); and such decision shall be final, unless a written application for its revision is presented to the Council within seven days from the date upon which such notice is posted and unless such decision is in consequence revised by the Council.

who to avoid such seizure, or, after seizure, to avoid a sale of such property, has paid the amount of rate or rates due in respect of such house, building, land, or tenement, and costs, may deduct the amount so paid by him from the rent due by him on account of the said house, building, land, or tenement to the owner or owners thereof; and the receipt of the Mayor for the amount so paid shall be deemed an acquittance in full for the like amount of rent:

Provided that nothing herein contained shall authorize any such deduction from the rent by any occupant, who by the terms of his lease or other agreement is himself bound and liable to pay such rate or rates.

Liability of persons leaving the Municipality.

***241.** If during the course of any quarter the Council has reason to believe that any person who, if that quarter had come to an end, would be liable to pay any rate or rates for that quarter is about to leave the Municipality, the Council may declare such person liable to immediate payment of such rate or rates or any of them from the commencement of that quarter up to the date of such declaration, and the amount of such rate or rates so declared to be due shall be leviable forthwith, in like manner and in all respects as the said rate or rates may in ordinary cases be leviable.

†244. No assessment or valuation, and no charge or demand of rate or tax under the authority of this Ordinance and no seizure and sale, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment or the mode of seizure and sale ; and no proceedings under this Ordinance or any by-law made thereunder shall be quashed or set aside for want of form by any court if the provisions of this Ordinance or of such by-law have in substance and effect been complied with.

Assessment, &c., not to be impeached for want of form.

Seizure of movable property.

***242.** No movable property found in or upon any house, building, land, or tenement in respect of which any rate or rates under this Ordinance may be due shall be seized by the Council for any arrears of such rate or rates beyond two quarters next preceding such seizure, unless such movable property belongs to any person who was the owner or joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due; or unless such movable property belongs to any person who has occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

245. (1) Every Municipal Council may levy an annual tax on vehicles and animals specified in the Fourth Schedule, and kept or used within the Municipality, at the rates specified in that Schedule.

Taxes on vehicles and animals. [§ 4, 42 of 1979.]

(2) The tax on vehicles and animals shall be payable at such times as the Council may direct, and shall be assessed and levied in the manner hereinafter mentioned or by any by-laws provided, which by-laws the Council is hereby empowered to make.

(3) No tax under this section shall be assessed or imposed or levied upon—

Deduction of rates paid by tenant from rent.

***243.** The occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property has been seized as aforesaid, or

(a) any vehicle or animal kept or used by the President or his personal staff • or

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof.

+ Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

- (b) any gun carriage or ordnance cart or wagon; or
- (c) any artillery or cavalry horse or any horse of the mounted orderlies or police; or
- (d) the authorized number of horses belonging to military officers doing staff, regimental, or other public duty within the Municipality; or
- (e) any bicycle belonging to the State and used by the armed forces of Sri Lanka; or
- (f) any vehicle kept for sale by a bona fide dealer in such vehicles.

247A. (1) A Municipal Council may, impose and levy a duty in respect of licences issued by the Council.

Power of Council to levy certain licence duties. [§ 5, 42 of 1979.]

(2) The duty levied under subsection (1) in respect of any licence issued by the Council authorizing the use of any premises for any of the purposes described in this Ordinance or in any by-law made thereunder shall be determined by the Council according to the annual value of the premises so licensed :

Provided that where the annual value of such premises falls within the limits of any item in Column I set out below, the maximum duty shall not exceed the sum set out in the corresponding entry in Column II—

Tax on vehicles and animals payable yearly in advance.

246. (1) The annual tax leviable under this Ordinance on the vehicles and animals specified in the Fourth Schedule shall be payable annually by each person in whose possession or custody or control any vehicle or animal liable to the tax may be found so soon as it has been for thirty days kept or used within the Municipality, but no person shall be liable under this section in respect of any vehicle or animal which has been in his possession, custody or control for less than thirty days in any year.

(2) No person by reason of the transfer of ownership shall be liable to pay the tax for any vehicle or animal on which tax has already been paid for the year in which the ownership was transferred.

(3) Half the tax paid on any vehicle or animal shall be refunded in every case where the Council is satisfied that the vehicle or animal has been kept or used for less than six months in any one year.

Sanction of Minister not required for certain rates.

247. Whenever in any year a Municipal Council, in making and assessing under the provisions of this Ordinance any rate on property, makes, assesses, imposes, or levies, without alteration, the same rate as was in force during the preceding year, the sanction of the Minister shall not be required for the making, assessment, imposition, or levying of such rate.

<i>Column I</i>	<i>Column II</i>
-----------------	------------------

Rs.

Where the annual value—	
does not exceed Rs. 1,500	. . . 2,000
exceeds Rs. 1,500 but does not exceed Rs. 2,500	. . . 3,000
exceeds Rs. 2,500	. . . 5,000;

Provided further, that where any such premises are used for the purposes of a hotel, restaurant or lodging house, and such hotel, restaurant or lodging house is registered with the Sri Lanka Tourist Board for the purposes of the Tourist Development Act, the duty so levied shall be according to the takings of the hotel, restaurant or lodging house for the year preceding the year in which the licence duty is levied, and shall not exceed one *per centum* of such takings.

For the purposes of this section, "takings" in relation to a hotel, restaurant or lodging house means the total amount received or receivable from transactions entered into in respect of that hotel, restaurant or lodging house or for services performed in carrying on that hotel, restaurant or lodging house—

247B. (1) A Municipal Council may impose and levy a tax on any trade carried on within the administrative limits of that Council.

Tax on certain trades [5,42,of 1979.]

(2) The tax levied under subsection (1) shall be annual tax determined by the Council according to the annual value of the premises on which that trade is carried on :

Provided that where the annual value of such premises falls within the limits of any item in Column I set out below, the tax levied shall not exceed the sum set out in the corresponding entry in Column II—

<i>Column I</i>	<i>Column II</i>
	Rs.
Where the annual value—	
does not exceed Rs. 1,500	. . 2,000
exceeds Rs. 1,500 but does not exceed Rs. 2,500	. . 3,000
exceeds Rs. 2,500	. . 5,000:

Provided further, that such tax shall not be leviable or payable in respect of any trade for which a licence is necessary under the provisions of this Ordinance or any by-law made thereunder.

(3) The tax levied under subsection (1) shall be payable, on such date as may be determined by the Council or prescribed by by-law, by the person who carries on such trade.

(4) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, the Council shall report such failure to the Magistrate's Court having jurisdiction over the area in which such Council is situated. The Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction, and the amount so recovered shall be paid into the Fund of the Council.

Tax on certain businesses, [§ 5, 42 of 1979.]

247C. (1) A Municipal Council may by resolution impose and levy annually on every person who, within the administrative limits of such Council, carries on any business for which no licence is necessary under the provisions of this Ordinance or any by-law made thereunder, or any tax is payable under section 247B, a tax according to the takings of the business for the year

preceding the year in which such tax is payable at such rates not exceeding the rates set out below:—

<i>Column I</i>	<i>Column II</i>
Where the takings of the business for the year—	Tax payable
	Rs.
(i) do not exceed Rs. 6,000	. . Nil
(ii) exceed Rs- 6,000 but do not exceed Rs. 12,000	. • 90
(iii) exceed Rs. 12,000 but do not exceed Rs. 18,750	- • 180
(iv) exceed Rs. 18,750 but do not exceed Rs. 75,000	• • 360
(v) exceed Rs. 75,000 but do not exceed Rs. 150,000	. . 1,200
(vi) exceed Rs. 150,000	. • 3,000;

Provided, however, that the preceding provisions of this section shall not apply to itinerant vendors who do not carry on business at fixed places or do not for the purposes of such business establish themselves on the public roads or other public place.

(2) The tax payable under subsection (1) shall be payable on such date as may be specified by the Council or prescribed by by-law.

(3) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, the Council shall report such failure to the Magistrate's Court having jurisdiction over the area in which such Council is situated. The Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction, and the amount so recovered by Court shall be paid into the Fund of the Council.

For the purposes of this section—

(a) "business" includes any trade or profession or calling or the business of a manufacturer, or of any person taking commission or fees in respect

of any transaction or services rendered or the business of an independent contractor, but does not include the occupation of selling articles, goods or materials at a private fair or the occupation of maintaining any educational establishment or school to which grants from State funds are paid or to which such grants were earlier paid but at present are not paid; and

" takings " in relation to any business means the total amount received or receivable from transactions entered into in respect of that business or for services performed in carrying on that business, and includes—

- (a) in the case of a financier, money-lender or pawn-broker, the moneys given out by him as loans, the interest receive or receivable by him on such loans, and the sums received by him as fees or other charges in respect of such loans;
- (b) in the case of an auctioneer, and subject to the provisions of paragraph (c) in the case of a broker or commission agent—
 - (i) in respect of lands sold by him or in the sale of which he is instrumental, the commissions or fees received or receivable by him for any transactions effected or services rendered by him in connexion with such sale;
 - (ii) in respect of any goods sold by him or in the sale of which he is instrumental the total amount paid or payable by the purchaser of such goods;
- (c) in the case of any broker (other than a share broker or a

produce broker), or commission agent, who—

- (i) on behalf of any person not resident in Sri Lanka, sells or is instrumental in selling any goods of that non-resident person, or
- (ii) acts on behalf of an exporter of any goods manufactured in Sri Lanka, or
- (iii) on behalf of any other person carrying on a business in Sri Lanka, is instrumental in selling in Sri Lanka any goods of that other person, being goods the total proceeds of the sale of which is included in the takings of the business of that other person,

the commissions or fees received or receivable by such broker or commission agent in respect of any transactions effected, or services rendered by him in so selling, acting, or in being instrumental in so selling, and in the case of a share broker or a produce broker, the commissions or fees received or receivable by such broker or commission agent in respect of any transaction effected or services rendered by him; and

- (d) in the case of a person carrying on any educational establishment or school, the total amount, excluding profits from investment of the moneys of the educational establishment or school, received or receivable by him in carrying on such educational establishment or school, but does not include any amount received or receivable by the sale of capital assets.

Tax on undeveloped land. [§ 5, 42 of 1979.]

247D. (1) Where any land within the administrative limits of a Municipal Council is suitable for building purposes, or for the purposes of permanent or regular cultivation, or such land is capable of being developed for any such purpose at a cost which would in the opinion of the Council, be reasonable, and where—

- (a) no building has been erected on such land; or
 - (b) the extent of such land which is actually covered by buildings bears to the total extent of such land, a proportion less than the prescribed proportion; or
 - (c) such land has not been subject to regular or permanent cultivation, the Council shall levy annually on the owner of such land, a tax not exceeding two *per centum* of the capital site value of such land.
- (2) The provisions of sections 235 and 236 shall, with the necessary modifications, apply with respect to every assessment of the capital site value of land made under subsection (1).

For the purposes of this section, "capital site value" when used in reference to any land, means the probable price which would be paid for the land, exclusive of all buildings thereon, if the land were sold in the open market, free of all mortgages, leases, encumbrances or other charges.

Tax on certain sales of land. [§ 5, 42 of 1979.]

247E. (1) Where any land within the administrative limits of a Municipal Council is sold by public auction or otherwise, by an auctioneer or broker or his servant or agent, the vendor or such auctioneer or broker or his servant or agent, shall pay to the Council, from the proceeds of the sale of such land, a tax equivalent to one *per centum* of the amount of such proceeds.

(2) If the tax payable under subsection (1) is not paid within fourteen days of demand, the Council shall report such failure to the Magistrate's Court and the Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may

impose in the exercise of his ordinary jurisdiction, and the amount so recovered by Court shall be paid into the Fund of the Council.

248. (1) Every Municipal Council may, with the sanction of the Minister, establish tolls, and take and receive all tolls payable within the Municipality; and it shall be lawful for the Minister to make over to the Council such existing or future tolls lawfully established, or such proportion of any such tolls as to him may seem fit, for the proper maintenance of the roads within the Municipality.

(2) Every Municipal Council which establishes tolls or to which tolls are made over as aforesaid, is hereby empowered to appoint toll-keepers and the provisions of the Tolls Ordinance shall, unless altered or modified by any by-laws made by the Council under this Ordinance, apply to the tolls so established or made over.

(3) The Council may by resolution, approved by the Minister and published in the Gazette, make over any toll established or taken and received by the Council or made over to the Council under this Ordinance in respect of any ferry, to any of the following local authorities or bodies, that is to say, any other Municipal Council, any Urban Council, any Town Council, or any Village Council.

249. The Council may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping or using carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons in lieu of the tax levied under section 245.

Power to compound with livery stable-keepers and others.

250. It shall be lawful for any person authorized in that behalf by the Council, at any time between sunrise and sunset, to enter and inspect any stable or coach house, or any place wherein he may have reason to believe that there is any vehicle or animal liable to taxation under this Ordinance; and the Council may summon any person whom it has reason to believe to be liable to the payment of such tax, or any other person, and may examine any such person as to the

Power to inspect stables, &c., and to summon persons liable to the payment of the tax.

number and description of the horses and carriages in respect of which such person is liable to be taxed.

in the Fifth Schedule, with such variations as the circumstances require.

Penalty for disobeying summons, or hindering the inspection.

- 251.** Every person who—
- (a) on being summoned under section 250 fails, without lawful excuse, to appear in pursuance of the summons; or
 - (b) hinders or obstructs any person authorized as aforesaid, from entering or inspecting or leaving any such stable, coach house, or place,

shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

Warrant for recovery of rates and taxes.

[§ 9, 48 of 1971.]

***252.** (1) If the amount of any rate assessed under this Ordinance or the amount of any tax imposed thereunder is not paid into the Municipal office within such time as the Council may direct, it shall be the duty of the Commissioner to issue a warrant signed by him to some collector or other officer of the Council named therein directing him—

- (a) in the case of non-payment of any rate, to levy such rate and the costs of recovery by seizure and sale of all and singular the movable or immovable property of the proprietor or of atny joint proprietor, of the premises on account of which such rate may be due, and of all movable property, to whomsoever the same may belong, which may be found in or upon any such premises; and
- (b) in the case of non-payment of any tax, to levy such tax and the costs of recovery by seizure and sale of the property on account of which such tax may be due, and of all and singular the movable or immovable property of the defaulter.

(2) Every warrant issued under subsection (1) shall be in the form contained

(3) A Municipal Council may by resolution waive the whole or any part of any rate or tax and any costs incurred for the purpose of recovering that rate or tax if it appears to the Council that the amount to be waived is inconsiderable or irrecoverable or that it should be written off on the ground of the poverty of the person liable therefor; and, in any case where any such resolution is passed, no warrant under subsection (1) shall be issued and any such warrant that may have been issued shall be recalled,

253. (1) If the amount due as rent for any premises let by the Council at a rental not exceeding thirty rupees a month is not paid into the Municipal office within fourteen days after such amount becomes due, it shall be the duty of the Commissioner by warrant signed by him to authorize an officer of the Council named therein and his assistants to levy such amount and the costs of recovery by the seizure and sale of all movable or immovable property situated within the Municipality and belonging to the tenant, and by the seizure and sale of all movable property, to whomsoever the same may belong, which may be found in or upon the premises for which rent is due.

Warrant for recovery of rent due to the Council-

[§ 10, 48 of 1971.]

(2) Every warrant issued under subsection (1) shall be in the form set out in the Sixth Schedule, with such variations as circumstances may require.

†**254.** Where a warrant is issued for the levy of any rate in respect of any house, building, land or tenement belonging to the State and leased to any person, such warrant shall not direct the seizure and sale of such house, building, land or tenement, or the leasehold or other interest of any lessee or occupier in the same, but shall be limited to directing the seizure and sale of the movable or immovable property of such lessee or occupier.

Warrants where State property is leased.

254A. (1) Where under the provisions of this Ordinance, or any by-law, rule or regulation made under this Ordinance, any duty, fine, penalty, fee or other payment has become due to the Municipal Council, then,

Recovery of payments due to the Municipal Council. [§ 28, 48 of 1971.]

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

† Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

notwithstanding anything to the contrary in any such provision or any such by-law, rule or regulation, it shall be the duty of the Municipal Commissioner to take all steps necessary to recover such duty, fine, penalty, fee or other payment and credit it to the funds of the Municipal Council.

(2) Where any rate, tax, rent, fee, duty, toll, fine, penalty or any other payment whatsoever has become due to the Municipal Council under any written law, other than this Ordinance, or any by-law, rule or regulation made under this Ordinance, then, notwithstanding anything to the contrary in the aforesaid written law, it shall be the duty of the Municipal Commissioner to take all steps necessary to recover such rate, tax, rent, fee, duty, toll, fine, penalty or other payment and credit it to the funds of the Municipal Council.

charge not exceeding five cents per day;

- (d) for keeping a person in possession in case of seizure of immovable property, or in case goods seized are not removed, a charge not exceeding seventy-five cents per day;
- (e) for the expenses of sale, when any sale takes place, a charge not exceeding twenty-five cents on every ten rupees of the net proceeds of sale.

***256.** Any property seized in pursuance of any warrant issued under this Part shall be sold by public auction (of which at least twenty-one days' notice shall be given in the Gazette and in one or more of the newspapers circulating within the Municipality in respect of property exceeding the value of one thousand rupees, and at least six days' notice in all other cases) by the officer to whom such warrant is addressed, or some other officer of the Council appointed by the Commissioner for that purpose, at any time after the expiration of twenty-four days in the case of property exceeding the value of one thousand rupees, and of eight days in all other cases, from the date of such seizure, unless in the meantime the amount of the rate or rates or tax or taxes or rent and of the costs aforesaid be duly paid; and the surplus accruing by such sale (if there be any), after deducting the amount of such rate or rates or tax or taxes or rent and the costs, shall be restored to the owner or joint owner of the property so sold :

Sale of property seized.

[§ 11, 48 of 1971.]

Scale of costs.

***255.** The costs of recovery as leviable under any warrant issued under this Part shall be according to the following table of charges:—

[§ 6, 42 of 1979.]

- (a) for costs on the issue of a warrant, a charge of—
 - (i) ten *per centum* on the amount of tax or rent due;
 - (ii) fifteen *per centum* on the amount of rate due on bare lands and residential premises; and
 - (iii) twenty *per centum* on the amount of rate due on properties other than bare lands and residential premises;
- (b) for seizure and removal of goods seized, in case such removal takes place, a charge not exceeding five cents for every fifty cents of rate or tax or rent due ;
- (c) for keeping any goods seized in safe custody in case of detention, a

Provided, however, that whenever it is necessary to seize and sell the property of any person making default in the payment of any rate or tax or rent, it shall be the duty of the officer acting under the Commissioner's warrant as aforesaid to observe, so far as the same may be applicable, the order and course prescribed by the Police Ordinance or by any other enactment to be in that behalf hereafter enacted.

[§ 11, 48 of 1971.]

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

Surplus of sale. **257.** If no demand shall be made for any surplus accruing from any sale made in pursuance of section 256 by the owner or joint owner of the property sold within twelve months from the date of such sale, the Commissioner shall pay the amount of such surplus to the credit of the Municipal Fund, and no person thereafter shall be entitled to demand or receive the same.

[§ 12, 48 of 1971.]

Power to break open house.

258. The person to whom any warrant under this Part is addressed may break open in the day-time any house or building for the purpose of seizing property in pursuance of such warrant.

Certificate of sale-

[§ 13, 48 of 1971.]

***259.** Where land or other immovable property is sold under any warrant issued under this Part, a certificate substantially in the form set out in the Seventh Schedule, signed by the Commissioner, shall be sufficient to vest the property in the purchaser free from all encumbrances. Every such certificate shall be liable to the stamp duty leviable on conveyances of immovable property and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser:

Provided, however, that it shall be lawful for a mortgagee of any land or other immovable property seized by virtue of any warrant issued under this Part to pay and discharge the amount of rate or tax and costs due under and by virtue of such warrant.

Rights of mortgagee.

260. Upon any payment and discharge by a mortgagee under section 259, such mortgagee shall be entitled to add the amount so paid and discharged to the sum due upon his mortgage, and the amount so added shall be deemed to be secured by such mortgage.

Power of Council to purchase land sold for non-payment of rates or taxes. [§ 14, 48 of 1971.]

***261.** Where land or other immovable property is seized and sold for non-payment of rates or taxes, it shall be lawful for any person authorized in that behalf by the Commissioner, to bid at the sale for, and to purchase, such land or other property for and on behalf of the Council.

***262.** Where a Municipal Council purchases any land or other immovable property which has been seized and sold for non-payment of rates or taxes, the Council shall not be required to pay the whole of the purchase money, but shall be entitled to take credit for the amount due under the warrant and the costs aforesaid, and shall only be required to pay the balance, if any, after deducting such amount, to the owner or person entitled to the property sold :

Council may take credit to extent of rate or tax and costs due.

Provided that where the proceeds of any such sale are less than the amount due to the Council under the warrant and as costs as aforesaid, nothing herein contained shall preclude the Council from recovering in accordance with the provisions of this Ordinance, the balance of any amount which may be due to it after deducting the amount realized by such sale.

263. Where land or other immovable property is purchased by a Municipal Council under the provisions of section 261, a certificate substantially in the form set out in the Eighth Schedule, signed by the Commissioner, shall vest the property sold absolutely in the Council free from all encumbrances -, and such certificate shall be received in all courts as conclusive evidence of the title of the Council to such land or other immovable property. Every certificate shall be liable to the stamp duty leviable on conveyances of immovable property and to the charges payable for the registration thereof.

Form of conveyance to the Council.

[§ 15, 48 of 1971.]

263A. A Municipal Council shall sell and convey any immovable property vested in the Council under section 263 to the person who would be entitled to such property but for the title thereto vesting in the Council, if—

Sale of property vested in the Council to the person who would be entitled to such property but for the title thereto vesting in the Council, [§7, 15 of 1957.]

(a) within twelve months reckoned from the date on which such property vested in the Council, such person makes a written application in that behalf to the Council, and

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

(b) within such period reckoned from the date of the receipt of the application as may be determined by the Council and notified to such person, he pays to the Council a sum equivalent to the price paid by the Council for the purchase of such property and the amounts and costs which, if such property were sold and conveyed by the Council under section 264, would be deducted under subsection (2) of that section from the surplus referred to in that subsection.

the period prior to the seizure and sale of the land or property, including costs on the issue of the warrant;

(b) the amount of the rates or taxes which would have been due and payable at the date of such sale and conveyance, if the land or property had not been seized and sold, together with an additional ten per centum of such amount; and

(c) the costs incurred by the Council in connexion with the seizure, purchase, surveying, vesting, maintenance, improvement, and the sale and conveyance of the land or property.

Power to sell properly vested in the Council. [§8, 15 of 1957.]

*264. (I) A Municipal Council, for valuable consideration, may sell and convey to any person any land or other immovable property vested in it under section 263 if such land or other property has not already been sold and conveyed by the Council under section 263A.

(6) After any payment is made in accordance with this section no further claim in respect of such surplus shall be allowed against the Council at the instance of any person whomsoever:

(2) Any surplus accruing from any such sale and conveyance (whether made and executed before or after the 4th day of August, 1933) shall, after deducting the amounts and costs specified in subsection (5), be paid on demand to the person entitled to the land or immovable property.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or part of any such surplus to pay the same to the person lawfully entitled thereto.

(3) No such surplus shall be so paid unless the said demand is made within ten years from the date of the sale and conveyance;

(7) For the purposes of this section, the expression "person entitled" means the person who would have occupied such position in respect of the land or immovable property sold and conveyed, but for the title thereto vesting in the Council under section 263.

Provided that where the surplus is payable either to a fideicommissary who is not entitled to possession at that date or to a person who is then a minor, the said period shall not commence to run until the right to possess accrues or majority is attained respectively.

264A. Where a Municipal Council decides to retain any immovable property vested in it under section 263, the value of such property at the time such property became vested in the Council shall be assessed by the Council, and thereupon the provisions of subsections (2) to (7), both inclusive, of section 264 shall apply in the case of such property subject to the following modifications:—

Procedure where the Council retains property vested in the Council. [§9, 15 of 1957.]

(4) If no demand is made within the said ten years, the Council shall pay such surplus to the credit of the Municipal Fund, and no person shall thereafter be entitled to demand or receive the same.

(5) The amount and costs which may be deducted under subsection (2) are as follows;—

(a) the amount of the rates or taxes, if any, remaining unpaid in respect of

(a) subsection (2) of that section shall have effect as if there were substituted in that subsection, fo

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof,

all the words from " Any surplus " to " shall, ", the following :—

" Where the value of any land or other immovable property assessed by the Council under section 264A exceeds the price paid by the Council for the land or other immovable property under section 262, the excess (hereafter in this section referred to as the surplus) shall, ";

- (b) subsection (3) of that section shall have effect as if there were substituted in that subsection, for the words " sale and conveyance : ", the words " assessment of the value of the land or other immovable property by the Municipal Council: ";
- (c) subsection (5) of that section shall have effect as if—
 - (i) there were inserted, immediately after paragraph (b) of that subsection, the following new paragraph :—

"(bb) the amount paid by the Council under section 262 in respect of the land or property,";

and
 - (ii) there were substituted, in paragraph (c) of that subsection, for all the words from " improvement, and " to the end of that paragraph, the words " improvement, assessment of the value, and conveyance of the land or property."; and
- (d) subsection (7) of that section shall have effect as if there were substituted, for the words "sold and conveyed,", the words " retained by the Council,".

mortgages of immovable property situated within the Municipality and of the addresses of the mortgagees thereof.

(2) Before any property, in respect of which any mortgage has been registered under this section, and which has been seized for the recovery of any rates and taxes, is offered for sale, the Council, at least twenty-one days before the sale, shall cause a notice of the sale to be posted to the registered address of the mortgagee.

266. (1) The Council may cause a tenant of the Council who has failed to pay rent within fourteen days after the same has become due to be served with a notice determining the tenancy and requiring the tenant to quit on or before the expiration of one month from the date of service.

Termination of tenancy of tenants of the Council.

(2) Every notice under subsection (1) shall be in the form set out in the Ninth Schedule with such variations as circumstances may require.

(3) Where a tenant fails to quit in accordance with a notice served on him under subsection (1), the Council may by warrant authorize an officer of the Council named therein and his assistants to eject from the rented premises the tenant and all persons occupying the premises under, or with the permission of, the tenant.

(4) Every warrant under subsection (3) shall be in the form set out in the Tenth Schedule with such variations as circumstances may require.

(5) A tenant upon whom a notice under subsection (1) is served may, within ten days of the service of the notice, apply by petition to the Primary Court having jurisdiction in the area where the premises are situated for an order staying ejectment.

(6) Upon such application being made the Primary Court shall, after notice to the Council, hold a summary inquiry and make an order staying ejectment altogether or for a stated period or refusing to stay ejectment as in the circumstances may appear fit.

Registration of mortgages and notices of sale.

***265.** (1) It shall be the duty of each Municipal Council to make provision by means of by-laws for the registration of

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

Every such order shall be final and conclusive and there shall be no appeal therefrom.

PART XIII

BY-LAWS

alter any street, building, drain, or other work, as to inspection by the officers of the Council, and as to the power of such officers (subject to the provisions of this Ordinance) to remove, alter, or pull down any work begun or done in contravention of such by-laws:

Provided that no requirements of any by-laws relative to the construction or alteration of streets, buildings, drains, or other works shall apply to any such works which were so constructed or altered, as the case may be, before such by-laws came into force, except where expressly stated therein to the contrary.

(2) A Council may make by-laws which shall be in force in any specified place or premises outside the Municipality if such place, or premises, or the administration or management thereof, is or are vested in the Council.

270. Where a Municipal Council has made by-laws to the satisfaction of the Minister in respect of any matter for the regulation of which provision is already made in the Municipal Dairies and Laundries Ordinance, the Minister may, by notification in the Gazette, declare that the provisions of that Ordinance shall not, to such extent as may be specified therein, apply within the Municipality.

271. Copies of all by-laws made by a Municipal Council shall be kept at the Municipal office, and shall be available for sale to the public.

272. In particular and without prejudice to the generality of the powers conferred by the preceding sections, by-laws may be made by a Municipal Council for and with respect to all or any of the following matters, namely:—

(1) officers and servants, and procedure, including—

(a) the creation of posts or offices (other than the posts or offices of Mayor, Deputy Mayor, Municipal Commissioner, Charity Commissioner and Municipal Magistrate);

Application of Municipal Dairies and Laundries Ordinance.

Copies of by-laws to be kept at Municipal office.

Matters with respect to which by-laws may be made.

Power to make by-laws.

267. (1) Every Municipal Council may, from time to time, make and when made may revoke or amend, such by-laws as may appear necessary for the purpose of carrying out the principles and provisions of this Ordinance.

(2) Every contravention of a by-law made by a Municipal Council shall be an offence under this Ordinance.

(3) Such by-laws may provide penalties for the contravention thereof as follows:—

- (a) in the case of a first offence, a fine not exceeding one hundred rupees ;
- (b) in the case of a second or subsequent offence, a fine not exceeding two hundred rupees; and
- (c) in the case of a continuing offence, an additional fine not exceeding twenty-five rupees for every day during which the offence is continued after a conviction or after service of a written notice from the Mayor directing attention to such contravention.

Approval and publication of by-laws.

268. (1) No by-law shall have effect until it has been approved by the Minister, confirmed by Parliament, and notification of such confirmation is published in the Gazette.

(2) Every by-law shall upon the notification of such confirmation be as valid, and effectual, as if it were herein enacted.

Additional provisions of by-laws.

269. (1) A Municipal Council may provide for the observance of any by-laws by enacting therein such provisions as it thinks necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out, construct, or

- (d) the provision of proper and sufficient means of sewerage, and the drainage for new streets and roads or for existing streets and roads, not being streets and roads constructed by, vested in, or maintained by the Council;
 - (e) the regulation of the use of public latrines and as to the decent conduct of persons using such latrines.
- (4) Waterworks, including—
- (a) the prevention of waste, misuse, undue consumption, or contamination of the water supplied by the Council for public or private use;
 - (b) the direction of the use, and prescribing the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal, and repair of the pipes, valves, cocks, cisterns, soil pans, water-closets, and other apparatus and receptacles or any of them to be used respectively for carrying, delivering, regulating, and storing water ;
 - (c) the regulation of the public supply of water by stand-pipes, and the use of the same;
 - (d) the regulation of the supply of water by private services, and the materials and fittings to be used;
 - (e) the regulation of the supply of water by measurement, and the materials, meters, appliances, and fittings used for such a purpose or in connexion therewith;
 - (f) the regulation of the terms and conditions subject to which water will be supplied for other than domestic purposes, and the price to be paid for water so supplied;
- (g) the prescribing of the procedure for the recovery of moneys due for the supply of water; and
 - (h) every other purpose relating to the supply or control of water supplied from the waterworks as to the Council may appear necessary.
- (5) Sanitation, including—
- (a) the prevention and abatement of nuisances;
 - (b) the removal and disposal of night-soil, and the charging, levying, and recovering of fees for such removal and disposal;
 - (c) the inspection, regulation, maintenance, and cleansing of all drains, privies, earth-closets, cesspools, ash-pits, and sanitary appliances, the closing of buildings or parts of buildings unfit for human habitation, and the prohibition of their use for such habitation;
 - (d) the conservancy of private premises;
 - (e) the regulation of any houses or places established for the reception of persons suffering from infectious disease, and for the imposing and recovering of fees for the use and occupation of such houses or places;
 - (f) the cleansing, disinfection, and destruction of temporary buildings and infected articles, and the cleansing and disinfection of buildings;
 - (g) the regulation and control of swine:

- (h) the prevention of malaria and the destruction of mosquitoes and other disease-bearing insects;
 - (i) the licensing, regulation, inspection and control of stables and cattle *galas*;
 - (j) washing and bathing, including the regulation, supervision, inspection and control of bathing places (other than bathing places established by the Council) and places for washing animals (other than places for washing animals established by the Council).
- (6) Streets, including—
- (a) the improvement, making, repairing, cleaning, watering, and lighting of streets;
 - (b) the prevention and abatement of obstructions and encroachments on streets, roads and canals;
 - (c) the regulation of traffic in streets;
 - (d) the erection of hoardings and other temporary structures, and the charging of fees for the same.
- (7) Land and property, including—
- *(a) the classification and assessment of buildings, lands, and tenements within the Municipality;
 - (b) the registration at the Municipal office of the names and addresses of the owners of lands and buildings within the Municipality, the inspection of the registers in which such names and addresses are registered, and the imposition and recovery of fees for such registration and inspection;
- (c) the registration at the Municipal office of mortgages over immovable property situated within the Municipality, and of the addresses of mortgagees, the inspection of the register in which such mortgages are registered and the imposing and recovery of fees for such registration and inspection;
 - *(d) the posting of notices in writing to such registered mortgagees of the sale of immovable property seized for the recovery of rates or taxes;
 - (e) the putting up and preservation of boundaries and offences of lands, whether private or public;
 - (f) the care and regulation of common pasture lands, and the levy of fees for the use of such lands.
- (8) Markets, fairs, bakeries, and provisions, including— [§10,15 of 1957-]
- (a) the licensing, regulation, management, conduct, and inspection of bakeries and the persons employed therein, and of the manufacture and quality of bread;
 - (b) the establishment of markets and fairs, private as well as public, including marts for the sale of cattle and other livestock, and the regulation, control, and use of such markets, and fairs, and the buildings, shops, sheds, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein or in the immediate approaches thereto; [§ 10 15 of 1957.]
 - (c) the seizure, forfeiture, and removal and destruction of unwholesome flesh, fish, or

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

other provisions introduced into the Municipality, and the prevention of the sale or exposure for sale thereof;

(d) the prohibition of the holding of cattle markets except in duly licensed places, and the granting of licences for holding such markets, or the withdrawal of such licences for breach of the conditions thereof;

(e) the seizure and removal of articles exposed for sale in contravention of any by-law ;

(f) the preparation and publication of a list of current prices;

(g) the regulation of the mode of sale of articles, whether by measure, weight, tale, or piece;

(gg) the fixing of the price (both wholesale and retail) above which any article of food shall not be sold in any market or fair, whether public or private;

(h) the regulation, supervision, inspection and control of the sale of living animals.

(9) The management and control of slaughterhouses, including the levy and recovery of fees for the use thereof, and the prevention of cruelty to animals therein.

(10) Stray cattle, including the fixing, levying, and recovery of charges for the occupation of pounds for stray cattle, and the cost of the keep of the animals impounded.

(11) The maintenance and regulation of quarantine stations for cattle, and the levying of fees for the occupation thereof.

*(12) Revenue, including the assessment of property, and the collection of rates and taxes.

(13) The prescribing of fees and the fixing of charges to be levied or made for any act, matter or thing required under this Ordinance to be done or observed.

(14) The licensing, regulation, inspection and control of hairdressers' and barbers' shops and saloons.

(15) The regulation, supervision, inspection and control of offensive or dangerous trades or businesses.

(16) The licensing of money-changers.

(17) The licensing of accountants and auditors (other than auditors who are registered under the Companies Ordinance),†

‡(18) The licensing, regulation, inspection and control of places of public entertainment, including the protection of the public from danger from fire.

(19) The regulation, supervision, inspection and control of the sale, or the storage or manufacture for the purposes of sale, of articles of food or drink including the sale, or the storage or manufacture for the purposes of sale, of such articles at hotels, shops and places other than markets.

(20) Itinerant vendors, including—

(a) the supervision or control of itinerant vendors;

(b) the issue of licences for the purposes of such supervision or control, and the conditions to be attached to such licences;

[§ 10. 15 of 1957.1

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. - See section 76 thereof.

† Repealed and replaced by the Companies Act, No. 17 of 1982.

‡ Vide also section 5 (2) of the Public Performances Ordinance.

- (c) the regulation or prohibition of the sale of any specified article or the sale of articles in any specified place or area.
- (21) Laundries and washing, including—
- (a) the regulation, supervision and control of laundries (other than public laundries established by the Council) and laundrymen;
 - (b) the inspection of such laundries, and the medical examination of those engaged in laundry work;
 - (c) the lighting, ventilation, cleansing, drainage, and water supply to laundries;
 - (d) the prevention of infection and contagion through articles in the charge of laundrymen;
 - (e) facilitating inquiries in connexion with the spread of infectious and contagious diseases through laundries, and articles sent thereto and distributed therefrom.
- (22) The licensing, registration, and regulation of lodging-houses, restaurants, eating houses and tea and coffee boutiques.
- (23) Dairies, including—
- (a) the licensing, registration and regulation of dairies, cow sheds, milk shops, milk stores, dairymen, cow-keepers and purveyors of milk;
 - (b) the inspection of dairies and dairy cattle, and the medical examination of those engaged in dairies or in the distribution of milk for sale;
 - (c) the lighting, ventilation, cleansing, drainage, and water supply of dairies and cow sheds in the occupation of persons following the trade of cow-keepers or dairymen;
- (d) the cleanliness of premises in which milk is kept, and of milk shops, and of vessels used for containing milk for sale;
 - (e) the precautions to be taken by purveyors of milk and persons selling milk by retail against infection and contamination;
 - (f) the standardization of milk and the prevention of the sale of milk below the prescribed standard;
 - (g) the determination of the deficiency in any of the normal constituents of genuine milk (including condensed and curdled milk), cream, butter, or cheese, or what addition of extraneous matter, or proportion of water, in any sample of milk, cream, butter, or cheese which shall, for the purposes of any enactment, by-law, or regulation for the time being in force, raise a presumption until the contrary is proved that the milk, cream, butter, or cheese is not genuine or is injurious to health;
 - (h) facilitating inquiry in connexion with the spread of infectious or contagious diseases through dairies.
- (24) the registration of cows kept in premises other than licensed dairies, the cleanliness and drainage of the buildings or parts of the buildings in which such cows are kept, and the levy of fees for the registration of such cows.
- (25) the establishment, maintenance, and regulation of tolls.
- (26) The regulation of the terms and conditions on which the assistance of the fire brigade may be obtained and the charging and recovering of fees for such assistance.
- (27) The prohibition or the regulation and control of advertisements displayed or exhibited so as to be

visible from any street, road, canal or lake, and the charging of fees in respect of advertisements displayed or exhibited in accordance with by-laws made in that behalf.

of the issuing authority or in prescribed circumstances and the cancellation or suspension of such licences for any non-compliance with such by-laws.

(28) The establishment, maintenance, working and supply, and the recovery of charges in connexion therewith of the following public services;—

- (a) water supply;
- (b) the lighting of streets, public places, and public buildings;
- (c) the supply of electric light or power;
- (d) markets;
- (e) public baths, bathing places, laundries and places for washing animals;
- (f) any other form of public service which the Council has resolved to provide.

(29) The prohibition of fishing in waters polluted by refuse and sewage.

(30) The abatement of nuisances, including the prohibition, regulation and control of the operation of gramophones, loudspeakers, amplifiers and other instruments automatically or mechanically producing or reproducing sound.

[§ 7.42 of 1979.]

(30A) Taxation, including the rendering of all returns and information that may be required for the purposes of any tax payable, or for the issue of any licence, under this Ordinance.

(31) The issue of licences in respect of any act, matter or thing for the licensing, regulation, supervision or control of which the Council is authorized to make by-laws, the conditions to be attached to such licences, the refusal of such licences whether in the absolute discretion

(32) The control of parking of motor vehicles within the Municipality by providing parking places and collecting the prescribed fee for parking such motor vehicles in such places: [§ 2, Law 18 of 1977.]

Provided that the preceding provisions of this paragraph shall not apply in respect of motor vehicles of the Sri Lanka Transport Board.

273. Where a notice, section, plan, or other document is required by any by-law to be laid before the Mayor, he shall within a reasonable time after the same has been delivered or sent to him signify in writing to the person by or for whom any work is proposed to be executed his approval or disapproval of the proposals submitted; and if the work is commenced after such notice of disapproval or without such approval, and is in any respect not in conformity with any by-law, the Council may cause so much of the work to be pulled down or removed as is not in conformity with such by-law. Approval or disapproval of plans.

274. In any case where a Municipal Council may under section 273 pull down or remove any work begun or executed in contravention of any by-law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable under any by-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the by-law shall be deemed to be a daily continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the first day when the offence was committed or the by-law was broken. Continuing offence.

275. In any case where a Municipal Council incurs expenses in consequence of a breach of any by-laws under this Ordinance by the act or default of any person, the Council may recover the amount of such expenses in the manner provided in this Ordinance from the said person. Recovery of expenses.

Right of entry. 276. In any case where the provisions of this Ordinance are contravened any person authorized under the provisions of this Ordinance may, subject to such provisions, enter upon private property, execute any work, and recover any expenses without prejudice to the powers conferred upon such person by any by-laws made hereunder.

PART XIV

CENTRAL CONTROL

Powers of Minister to dissolve Council for incompetency, &c. [§111. Law 24 of 1977.]

277. (1) If at any time the Minister is satisfied that there is sufficient proof of—

- (a) incompetence and mismanagement; or
- (h) persistent default in the performance of the duties imposed by this Ordinance or any other written law; or
- (c) persistent refusal or neglect to comply with any provisions of law; or
- (d) abuse of the powers conferred by this Ordinance or any other written law; or
- (e) persistent refusal to hold or attend meetings or to vote or to transact business at any meeting to be held,

on the part of the Mayor, or on the part of any Municipal Council, or of any of the Councillors thereof the Minister may as the circumstances of each case may require by Order published in the Gazette—

- (i) remove the Mayor from office; or
- (ii) remove all or any of the Councillors of the Council from office and the provisions of section 13 (3) shall thereupon apply; or
- (iii) dissolve the Municipal Council;

and such Order shall as soon as may be convenient be laid before Parliament.

[§111. Law 24 of 1977.]

(IA) The Minister shall, before making an Order under subsection (1), appoint for

the purpose of satisfying himself in regard to any of the matters referred to in subsection (I), a retired judicial officer to inquire into and report upon such matter within a period of three months, and the person so appointed shall in relation to such inquiry have the powers of a commission of inquiry appointed under the Commissions of Inquiry Act.

(IB) (a) When the Minister appoints a retired judicial officer under subsection (IA) to inquire into any matter the Minister may, as the circumstances of each case may require, by Order published in the Gazette—

- (i) suspend the Mayor from office and direct the Deputy Mayor or, where the office of the Deputy Mayor is vacant or where the Deputy Mayor has been suspended from office, the Municipal Commissioner to exercise the powers and perform the duties of the Mayor; or
- (ii) suspend any Councillor from office; or
- (iii) suspend the Council and direct the Municipal Commissioner to exercise the powers and duties of the Council and its Mayor.

(b) Upon the receipt of the report of the person appointed under subsection (IA), the Minister may make an Order under subsection (1) or revoke the Order made under paragraph (a) of this subsection.

(Ic) Where the Minister removes the Mayor of a Municipal Council from office by Order under subsection (1), the Mayor shall also cease to be a Councillor and the provisions of the Local Authorities Elections Ordinance shall thereupon apply with regard to the filling of such vacancy.

(2) By any subsequent Order published in like manner—

- (a) the President may appoint for a stated period or, from time to time, a Special Commissioner or Special Commissioners to have, exercise, perform and discharge such of the rights, privileges, powers, duties and functions conferred or imposed

upon, or vested in, the Council or the Mayor by this Ordinance or other written law as may be set forth in such Order, or in any Order or Orders amending the same ; or

(b) the Minister may direct that a new Municipal Council in accordance with the provisions of this Ordinance shall be constituted for the Municipality in place of the dissolved Council.

(3) Every Order made under this section shall contain such directions as may be necessary for the purpose of giving effect to the Order, and shall, on publication in the Gazette, have the force of law.

[§ 2, Law 8 of 1974.]

(3A) At any time after the dissolution of the Council and after the appointment of a Special Commissioner or Special Commissioners under subsection (2), the Minister may by Order published in the Gazette direct that a new Municipal Council in accordance with the provisions of this Ordinance shall be constituted for the Municipality in place of the dissolved Council.

[§ 2, 12 of 1959.]

(4) Whenever, in consequence of the exercise of the powers conferred by this section, it becomes necessary for any period of time to elapse between the dissolution of the Council and the appointment of a Special Commissioner or Special Commissioners or the constitution of a new Council, or between the cessation of the holding of office by the Special Commissioner or Special Commissioners who was or were appointed and the constitution of a new Council, the Municipal Commissioner shall during such period—

[§ 3, 42 of 1968.]

(a) have, exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the Council, the Mayor, or the Deputy Mayor, by this Ordinance or by any other written law, and

(b) be the successor of the dissolved Council or the Special Commissioner or Special Commissioners, as the case may be.

(4A) The Special Commissioner or Special Commissioners appointed under subsection (2) upon the dissolution of a Council shall—

[§ 3,42 of 1968.]

(a) if the appointment was made immediately after the dissolution of the Council, be the successor or successors of the dissolved Council, and

(b) if the appointment was made after the Municipal Commissioner under subsection (4) had had, exercised, performed, and discharged the rights, privileges, powers, duties and functions referred to in that subsection, be the successor or successors of the Municipal Commissioner,

(4B) The provisions of section 325 with the necessary modifications shall— [§ 3,42 of 1968.]

(a) in the case of a Municipal Commissioner who under subsection (4) of this section is the successor of a Council which was dissolved, or of a Special Commissioner or Special Commissioners, apply in the same manner as if all references to any local authority in the aforesaid section 325 were references to the dissolved Council or to the Special Commissioner or Special Commissioners, as the case may be, and as if all references to a Municipal Council in the aforesaid section 325 were references to the Municipal Commissioner, and

(b) in the case of a Special Commissioner who under subsection (4A) of this section is the successor of a Council which was dissolved or of the Municipal Commissioner, apply in the same manner as if all the references to any local authority in that aforesaid section 325 were references to the Council which was dissolved or to the Municipal Commissioner, as the case may be, and as if all the references to a Municipal Council in the aforesaid section 325 were references to the Special Commissioner.

[§ 3, 42 of 1968.]

(5) Where, after the dissolution of the Municipal Council for any Municipality, a new Municipal Council is constituted for that Municipality, the new Council shall be the successor of the person or persons who immediately prior to the constitution of the new Council had had, exercised, performed and discharged the rights, privileges, powers, duties and functions conferred or imposed upon, or vested in, the Council by this Ordinance or other written law, and the provisions of section 325 shall apply with the necessary modifications in the case of the constitution of the new Council in the same manner as if all the references to any local authority in that section were references to such person or persons, as the case may be, and as if all the references to a Municipal Council in that section were references to the new Council.

281. On the receipt of the report of the officer appointed under section 280, or of any special officer appointed under section 142, the Minister may determine what duty or work shall be done or executed, and make an order requiring the Council, within a time to be specified in such order, to fulfil such duty or carry out such work.

Power of Minister to make order requiring Council to do the necessary work-

282. Where any Municipal Council fails to comply with any order made under section 281, within the time specified therein, the Minister may direct the Mayor or appoint any other person to fulfil such duty or carry out such work, and may fix the remuneration to be paid to such person, and may direct that such remuneration and the cost of such work shall be defrayed out of the Municipal Fund.

Power to enforce order.

283. (1) For the purpose of fulfilling any duty or carrying out any work referred to in section 281, the Minister may direct a Municipal Council to raise funds by any one or more or all of the following methods, namely, the levy of any tax under this Ordinance or the levy of any such tax at a higher rate than previously in force or the raising of a loan.

Power to direct the levy of a tax or the raising of a loan.

Power of Minister to call for extracts from proceedings.

278. The Minister may by written order require any Municipal Council to furnish him with any extract from any proceedings of the Council, or of any standing or special committee of the Council and the Council shall comply with the requirements of such order without unreasonable delay.

(2) Where the Minister by virtue of the powers conferred by subsection (1) directs a Council to raise a loan, the provisions of Part X and of any regulations made thereunder (except the provision of section 191 which requires the sanction of the Minister for the raising of a loan) shall apply to such loan in like manner and to the same extent as they apply to a loan raised under that Part.

Power of Minister to call for statistics.

279. The Minister may at all times call for such statistics connected with the working, income, and expenditure of any Municipal Council as he deems fit; and the Council shall comply with the requirements of such notice without unreasonable delay.

(3) Nothing in the preceding provisions of this section shall be deemed or construed to authorize a Council to levy any tax at a rate higher than the maximum rate authorized by or under this Ordinance.

Power of Minister to make inquiry,

280. If at any time it appears to the Minister that any Municipal Council is omitting to fulfil any duty or to carry out any work imposed upon it by this Ordinance or any other written law he may give notice to the Council that unless, within fifteen days, the Council shows cause to the contrary, he will appoint a special officer to inquire into and report to him the facts of the case, and to recommend what steps such officer thinks necessary for the purpose of fulfilling such duty or carrying out such work. Such inquiry shall be conducted, as far as may be practicable, in an open manner.

284. The Minister may, at any time, by Order published in the Gazette—

Power of Minister to vary limits of Municipality or wards and number of members and to dissolve and replace Council. [§ 112, Law 24 of 1977.]

- (a) vary the limits of any Municipality ;
- (b) vary the number of Councillors prescribed for any Municipal Council ;

(c) dissolve any existing Municipal Council and direct that it shall be replaced by a new Municipal Council to be constituted in accordance with the provisions of this Ordinance, in lieu of such existing Council, whenever it appears to him to be expedient so to do upon any variation of the limits of the Municipality for which the existing Council was constituted ;

(d) dissolve any Municipal Council for the purpose of constituting any other local authority in its place.

of the dissolved Council for all purposes relating to the Municipality and all the provisions of section 325 shall apply, with the necessary modifications, in the case of the constitution of the new Council, in the same manner as if all references to any local authority in that section were references to the dissolved Council and as if all references to a Municipal Council in that section were references to the new Council.

287. (1) The provisions of any Schedule to this Ordinance may be amended or rescinded by Order made by the Minister and published in the Gazette. Amendment of Schedules.

(2) All references in this Ordinance or in any other written law to the said Schedules shall be construed as references to the Schedules in force for the time being.

288. The powers and duties conferred or imposed upon the Minister by this Ordinance shall be in addition to and not in derogation of any powers or duties conferred or imposed upon him by any other written law. Additional powers of Minister.

289. (1) The Minister may make regulations generally for the purpose of giving effect to the principles and provisions of this Ordinance and in respect of any matter for which regulations are authorized or required by this Ordinance to be made or required by this Ordinance to be prescribed. Power to make regulallons. 1977.]

(2) No regulation made under this section shall have effect unless it has been approved by Parliament and notification of such approval is published in the Gazette.

(3) Every regulation made under this section shall, upon the notification of such approval, be as valid and effectual as if it were herein enacted.

PART XV

GENERAL

290. Nothing in this Ordinance shall be deemed or construed to prohibit the exercise, discharge or performance by any Municipal Council or the Mayor, Deputy Mayor, Commissioner or other officer of Exercise of powers, &c-, conferred by Local Government Service Law.

Effect of dissolution of Council under section 284.

***286.** (1) Where the Minister in pursuance of the provisions of section 284 dissolves any existing Municipal Council and directs that it shall be replaced by a new Municipal Council to be constituted in accordance with the provisions of this Ordinance, the existing Council shall, without prejudice to anything already done by it, be dissolved from such date as may be specified by the Minister and shall, from that date. cease to have, exercise, perform and discharge any of the rights, privileges, powers, duties and functions conferred or imposed upon it or vested in it, by this Ordinance or by any other written law.

(2) The Minister may in the Order under section 284 dissolving the existing Council or in any subsequent Order under that section give such directions as may be necessary for the purpose of giving effect to the Order and such directions shall, on publication in the Gazette, have the force of law.

(3) During the period that elapses between the dissolution of a Council under section 284 and the constitution of a new Council in its place, the Commissioner shall have, exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the Council, the Mayor or Deputy Mayor by this Ordinance or by any other written law.

(4) The new Council shall, from the date of the Constitution thereof, be the successor

* Section 285 is repealed by Law No. 24 of 1977.

any such Council of any power, function or duty vested in, assigned to or imposed on it or him by the Local Government Service Law or any regulation made thereunder.

Information to be given by landlords to tenants.

291. (1) The landlord of every such house within the Municipality as is let at a rent not exceeding the prescribed rent shall deliver in writing to the tenant of that house, at the commencement of the tenancy and before any rent is demanded or collected, the landlord's name and address and, if the landlord is not directly responsible for keeping that house in all respects reasonably fit for human habitation, the name and address of the person who is so responsible.

(2) Where there is any failure to comply with the provisions of subsection (1) in respect of any house, the landlord of that house and any person who while such failure continues demands or collects any rent in respect of that house shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five rupees.

(3) In this section—

"landlord", in relation to any house, means the person for the time being entitled to receive the rent of that house, and includes any tenant who lets that house or any part thereof to any subtenant; and

"prescribed rent" means the rent prescribed by the Minister, for the purposes of this section, by Order published in the Gazette.

Service of notices, &c.

292. (1) Every notice, order or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be served on any person may be served—

(a) by the delivery thereof to such person, or by the delivery thereof at the last known place of abode of such person to some adult member or servant of his family ;

(b) by the delivery thereof at the usual or last known place of abode or

business of such person in a cover addressed to such person; or

(c) by the despatch thereof by registered post in a letter addressed to such person at his usual or last known place of abode or business:

Provided always that where the Council has made provision for the registration of owners of property and any owner of property has registered his name and address in accordance therewith, every such document shall be served upon him by the despatch thereof in a letter sent by registered post to that address.

(2) Every notice, order or other document despatched by registered post shall be deemed to have been served at the time when the letter containing the document would be delivered in the ordinary course of post; and in proving such service it shall be sufficient to prove that the letter containing the document was properly addressed and put in the post.

(3) A notice, order or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without the addition of his name or any further description.

(4) A notice, order or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be served on the owner or occupier of any premises may be served by the delivery thereof or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom the document can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

(5) Any notice, application or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be given, made or delivered to a Municipal Council, shall be deemed to have been given, made or delivered to the Council if such notice,

application, or other document is given, made or delivered to the secretary of the Council.

his landlord has accrued and become payable by him, unless he neglects or refuses, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent, and the address of the person to whom such rent is payable.

Execution of works and recovery of expenses.

293. Whenever under the provisions of this Ordinance or any by-law or regulation or rule made thereunder any work is required to be executed by the owner or occupier of any house, building, or land, and default is made in the execution of such work, the Council, whether any penalty is or is not provided for such default, may cause such work to be executed, and the expenses thereby incurred shall be paid by the person by whom such work ought to have been executed, and, in case of default, shall be recoverable as hereinafter provided.

(2) The burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier.

(3) Nothing herein contained shall be taken to affect any special contract made between any owner and occupier respecting the payment of the expenses of any such works as aforesaid.

Power to levy charges on occupier.

294. (1) Where the owner of any house, building, or land makes default in the payment of any expenses referred to in section 293, the Council may, by way of additional remedy, whether an action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of such expenses from the person who then, or at any time thereafter, occupies the house, building, or land under such owner.

296. (1) Whenever default is made by the owner of any house, building, or land in the execution of any work required to be executed by him, the occupier of such house, building, or land may, with the approval of the Council, cause such work to be executed, and the expenses thereof shall be paid to him by the owner, or the amount may be deducted out of the rent, from time to time, becoming due from him to such owner.

Occupier, in default of owner, may execute works and deduct expenses from the rent.

(2) The whole or any part of any expenses referred to in subsection (1) shall, in default of payment by such occupier on demand, be levied by distress of the goods and chattels of such occupier.

(2) The owner of any house, building, or land shall not be entitled to eject the occupier thereof until any expenses incurred by the occupier under subsection (1) have been fully paid or deducted as provided by that subsection.

(3) Every occupier who pays any expenses or from whom any expenses are recovered under the preceding provisions of this section shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses, and to retain possession of the house, building, or land until such expenses are fully reimbursed to him.

297. If the occupier of any house, building, or land prevents the owner thereof from carrying into effect, in respect of such house, building, or land, any of the provisions of this Ordinance or of any by-law, or regulation or rule made thereunder, after notice of his intention so to do has been given by the owner to such occupier, a Magistrate or Municipal Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such house, building, or land, as may be necessary for carrying into effect the provisions of this Ordinance or of any by-law, or regulation or rule made thereunder,

Obstruction by occupiers.

Limitation of occupier's liability.

295. (1) No occupier of any house, building, or land shall be liable to pay more money in respect of any expenses charged by this Ordinance on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to

and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order such occupier continues to refuse to permit such owner to execute such works, such occupier shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding fifty rupees for every day during which he so continues to refuse, and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

entering any premises, or refuses admittance thereto, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

300. If on account of any act, neglect, default or omission any person is convicted of an offence under this Ordinance, and by reason of the said act, neglect, default or omission of that person, damage is caused to any property of a Municipal Council, he shall, in addition to any other penalty that may be imposed for the offence, be liable to make good such damage and the amount of such damage shall in case of dispute be determined by the court by which the person is convicted, and the amount of such damage shall be recovered as if it were a fine imposed by the court.

Damage to property of Council to be made good in addition to penalty.

301. Where a Municipal Council shall have incurred any expense in executing any of the works which under this Ordinance or any by-law, regulation or rule made thereunder the owner of any house, building, or land is required to execute, the Council may either recover the amount of such expenses in the manner hereinbefore provided, or if it thinks fit, may take engagements from the said owner for payment by instalments of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of nine *per centum* per annum, within a period not exceeding five years and such sums when due may be recovered by the same process by which rates may be recovered under this Ordinance.

Recovery of expenses on account of improvement to private property.

302. A Municipal Council may make compensation out of the Municipal Fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Council, its officers or servants by or under this Ordinance.

Payment of compensation.

303. (1) Except as herein otherwise provided, in all cases where compensation, damages, costs, or expenses are payable under the provisions of this Ordinance or any by-law, regulation or rule made thereunder, the amount, in case of dispute, and, if necessary, the apportionment of the

Determination of compensation.

Remedy if neither owner nor occupier pays expenses.

298. If neither the owner nor the occupier of any house, building, or land pays the expenses incurred by the Council, the amount of the expenses shall be a first charge upon the house, building, or land in respect of which the expenses were incurred, and shall be recoverable as such by the Council.

Provisions regarding entry of premises by Mayor, &c.

299. (1) For the purpose of carrying out the provisions of this Ordinance or of any by-law, regulation or rule made thereunder, it shall be lawful for the Mayor, the medical officer of health or any officer generally or specially authorized in that behalf by the Mayor or by the medical officer of health, at any time between sunrise and sunset, and after giving reasonable notice to the occupants, to enter any building within the Municipality and make such inspection and examination of the premises as may appear necessary.

(2) Whenever the Mayor or other person is empowered by this Ordinance or by any by-law, regulation or rule made thereunder to enter any premises for the purpose of inspection or for any other purpose, the Mayor or such other person may enter such premises at any time between sunrise and sunset but shall give the owner or occupier (except in cases where it is expressly provided by this Ordinance that notice need not be given) reasonable notice of his intention to enter the premises.

(3) Every person who prevents or attempts to prevent the Mayor or any other person authorized as aforesaid from

same, shall be ascertained and determined in the following manner:—

- (a) where the amount claimed does not exceed one hundred rupees, by a Magistrate or a Municipal Magistrate after summary inquiry into the claim;
- (b) where the amount claimed exceeds one hundred rupees and does not exceed one thousand five hundred rupees, by the Primary Court having local jurisdiction;
- (c) where the amount claimed exceeds one thousand five hundred rupees, by the District Judge having local jurisdiction.

(2) In the cases referred to in paragraphs (b) and (c) of subsection (1) the claim shall be made by instituting a civil action therefor. Such action shall be heard and determined according to the procedure prescribed by the law for the time being in force regulating the hearing and determination of actions brought in Primary Courts and District Courts respectively.

(3) Any person aggrieved by a decision of a Magistrate under paragraph (a) of subsection (1) may appeal therefrom to the Court of Appeal in accordance with the provisions of section 320 of the Code of Criminal Procedure Act.

(4) Any person aggrieved by a decision under paragraph (b) or paragraph (c) of subsection (1) may appeal therefrom to the Court of Appeal. Every such appeal shall be subject to the provisions relating to appeals to the Court of Appeal contained in the Primary Courts' Procedure Act and in Chapter LVIII of the Civil Procedure Code respectively.

Recovery of damages.

304. If the amount of compensation, damages, costs, or expenses determined under section 303 are not paid by the person liable to pay the same within seven days after the demand, such default may be reported to the Magistrate, and the amount thereof shall be recovered in the same way as if it were a fine imposed by such Magistrate.

305. (1) Where permission is given by the Council or the Mayor or the Commissioner for making any temporary erection or for putting up any projection, the Council may charge a fee for such licence or permission, and the rates of the fees to be so charged shall be, from time to time, determined by the Council;

Fees for licences. &c. [§ 8, 42 of 1979.]

Provided that no such fee shall exceed the sum of one thousand rupees and the fees shall all be taken to the credit of the Municipal Fund.

(2) Where permission is given or any licence is granted for the temporary occupation of any ground belonging to the Council, the Council may charge rent for such ground, according to the time the occupation continues, at such rates as may, from time to time, be fixed by the Council.

306. (1) The Council may direct any prosecution for any nuisance whatsoever, and may order proceedings to be taken for the recovery of any fines and penalties, and the punishment of any persons offending against the provisions of this Ordinance or of any by-law, regulation or rule made thereunder, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund.

Legal and other proceedings.

(2) Where any person complains of the existence of a nuisance to the Mayor, the Council shall enquire into the complaint so made, and may make order for abating or remedying such nuisance.

(3) Nothing herein contained shall be held to preclude any person from proceeding against the Mayor or the Council by mandamus or other proceeding, to compel him or it to put the provisions of this Ordinance or of any by-law, regulation or rule made thereunder in force for abating or remedying a nuisance or in any other respect, or to restrain him or it from an undue or illegal exercise of authority.

307. (1) No action shall be instituted against any Municipal Council, or the Mayor or any Councillor or any officer of the Council or any person acting under the direction of the Council or Mayor for anything done or intended to be done under

Limitation of actions against Council.

the provisions of this Ordinance or of any by-law, regulation or rule made thereunder until the expiration of one month next after notice in writing shall have been given to the Council or to the defendant, stating with reasonable certainty the cause of such action, and the name and the place of abode of the intended plaintiff and of his proctor or agent, if any, in the action.

(2) Every action referred to in subsection (1) shall be commenced within three months next after the accrual of the cause of action and not afterwards.

(3) If any person to whom notice of action is given under subsection (1) shall, before action is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs by the plaintiff.

(4) If no tender of amends is made under subsection (3) it shall be lawful for the defendant in such action, by leave of the court before which such action is pending, at any time before issue is joined, to pay into court such sum of money as he may think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

was done or omitted to be done or entered into bona fide for the purpose of carrying out the provisions of this Ordinance or any other enactment relating to the powers and duties of the Council, the Mayor, the Deputy Mayor, or the Commissioner, or of any by-law, regulation or rule made thereunder, subject any Councillor or any such officer or other person personally to any action, liability, claim or demand whatsoever, and any expenses incurred by the Council, or by any Councillor; or officer of the Council or other person acting as aforesaid shall be borne and repaid out of the Municipal Fund :

Provided that nothing in this section shall exempt any Councillor from liability to be surcharged with the amount of any payment which may be disallowed upon the audit of the accounts of the Council and which such Councillor authorized or joined in authorizing,

310. Subject and without prejudice to any other powers, a Municipal Council, where the defendant in any action, prosecution or other proceeding is a Councillor or an officer, agent or servant of the Council, may, if it thinks fit, except so far as the court before which the action, prosecution or other proceeding is heard and determined otherwise directs, pay out of the Municipal Fund all or any part of any sums payable by the defendant in or in consequence of the action, prosecution or proceeding, whether in respect of costs, charges, expenses, damages, fines or otherwise.

Defendant's costs, &c., may be paid from Municipal Fund.

311. Every Councillor, and every officer or servant of the Council duly appointed, and every contractor or agent to whom the collection of any municipal rate, tax, rent or toll, or any payment on account of, or in connexion with, Municipal land is entrusted by or on behalf of the Council, and every servant or other person employed by such contractor or agent, shall be deemed to be a public servant within the meaning of the Penal Code.

Councillors and others to be public servants.

312. Except where otherwise provided, every person who is guilty of an offence under the provisions of this Ordinance shall be liable for every such offence to a fine not

Penalty for offence.

Limitation of prosecutions.

308. No person shall be liable to any fine or penalty under this Ordinance or any by-law, regulation or rule made thereunder for any offence triable by a Judge of the High Court or Magistrate or Municipal Magistrate, unless the complaint respecting such offence is made within three months next after the commission of such offence :

Provided that in respect of an offence under section 234 the complaint may be made at any time within twelve months next after its commission.

Protection of Councillors, &c.

309. No matter or thing done or omitted to be done, and no contract entered into by any Municipal Council, and no matter or thing done or omitted to be done under the direction of the Council, by any Councillor or officer of the Council or by any other person whomsoever shall, if the matter or thing so done or omitted to be done or the contract or thing so entered into

exceeding one hundred rupees, and in the case of a continuing offence, to a further fine not exceeding twenty-five rupees for each day during which the offence is continued after conviction or after service of a written notice from the Mayor directing attention to such offence.

Prosecutions to be before Magistrate.

313. Every prosecution under this Ordinance shall be instituted before a Magistrate or Municipal Magistrate, and shall be governed by the provisions of the Code of Criminal Procedure Act and it shall be lawful for such Magistrate to impose the full fine or penalty herein or in any by-law provided, notwithstanding that such fine or penalty exceeds the limits of his ordinary powers of jurisdiction.

Application of fines.

314. The Magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion, not being more than one-half of the amount recovered, to the informer, and shall order the remainder, or, if he makes no award to the informer, the whole of such fine to be paid to the Council.

Powers and liability when extinguishing a fire.

315. (1) The Superintendent or other officer in charge of the fire brigade maintained by any Municipal Council under the provisions of this Ordinance may, subject to such orders as the Council may, from time to time issue, take command of the firemen of such brigade and of any other persons who voluntarily place their services at his disposal and by himself or through those so under his command for the purpose of putting an end to a fire—

- (a) remove any persons who interfere by their presence with the operations of the brigade;
- (b) break into or through or take possession of or pull down any premises doing as little damage as possible;
- (c) shut off the water from the mains and pipes of any district and utilize the water of any well or tank; and
- (d) generally do all things and take all measures that appear expedient for the protection of life and property.

(2) Any damage occasioned in the due exercise of the powers under subsection (1) shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

Expenses of police.

316. The annual expenses of the police force of any Municipality, exclusive of the salaries of the Inspector-General of Police, the Superintendents, and the cost of barracks, hospitals, arms, and medical attendants, shall be paid out of the Municipal Fund of the Council:

Provided that it shall be lawful for the Minister in charge of the subject of Police to fix the numerical strength and cost of such force, and without his sanction no reduction therefrom shall be made by the Council.

Annual report of Commissioner of Local Government on affairs of each Municipal Council.

317. (1) The Commissioner of Local Government shall prepare and transmit to the Mayor of each Municipal Council a report containing a general survey of the affairs of the Council in each year, and the Mayor shall cause such report to be tabled for the information of the Councillors at the next meeting of the Council held after the receipt of such report.

(2) For the purpose of preparing the report referred to in subsection (1), the Commissioner of Local Government or any officer generally or specially authorized in that behalf by him may—

- (a) inspect any public building, immovable property or institution used, occupied or carried on by or on behalf of any Municipal Council, or any work in progress under the direction of any Municipal Council;
- (b) call for and inspect any book or document in the possession or under the control of any Municipal Council; and
- (c) require any Municipal Council to furnish accounts of income and expenditure, reports or copies of documents relating to the proceedings or duties of the Council or any committee of the Council, and such other information as may

be considered necessary by the Commissioner of Local Government.

with ail rights which were enjoyed by such Councils, shall continue to be vested in or held in trust for the said Councils for the purposes of this Ordinance.

PART XVI

TRANSITIONAL ARRANGEMENTS AND MISCELLANEOUS PROVISIONS

(2) The Municipal Councils of Colombo, Kandy and Galle, respectively, may continue to take and receive the tolls heretofore taken and received by them respectively.

(3) The Municipal Council of Colombo shall be entitled to lake and receive for the Municipal Fund all stamp duties payable for and in respect of the licences issued under or by virtue of the Excise Ordinance to sell by retail arrack and rum at taverns situated within the Municipality of Colombo.

Existing Municipalities to continue.

318. The Municipalities of Colombo, Kandy and Galle, respectively, existing at the date of the commencement of this Ordinance shall continue to be Municipalities subject to the provisions of this Ordinance and shall be deemed for all purposes to have been declared to be Municipalities under section 2 of this Ordinance,

Existing Municipal Councils to continue.

319. The Municipal Councils of Colombo, Kandy and Galle, respectively, constituted and existing at the date of the commencement of this Ordinance shall be deemed for all purposes to have been constituted under section 3 of this Ordinance, and the term of office of the members of each such Council shall be determined in like manner as if this Ordinance had been in operation at the time of the general election at which the members were elected.

Existing by-laws, &c., to continue.

320. All proclamations, orders, notifications, rules, regulations, and by-laws of or affecting the Municipalities of Colombo, Kandy and Galle, and published under any repealed enactment, and all posts, offices, appointments, contracts, assessments, valuations, documents, licences and permission created or made or granted, rates and taxes imposed, by the Municipal Councils of Colombo, Kandy and Galle, under any such enactment shall, so far as they are not inconsistent with the provisions of this Ordinance, continue in force and be deemed for all purposes to have been published, created, made, granted, or imposed, as the case may be, under this Ordinance.

Special provisions relating to property, &c., of Councils of Colombo, Kandy and Galle-

321. (I) All property of any kind whatsoever, movable or immovable, and all interests therein, which by virtue of any repealed enactment was vested in or held in trust for the Municipal Councils of Colombo, Kandy and Galle, respectively,

322. Nothing in this Ordinance shall be deemed to affect the right of the State to demand and receive every several sum or instalment of money lent under the provisions of any enactment authorizing the grant of a loan, to either of the Municipal Councils of Kandy and Galle for the construction of waterworks, but the said several sums or instalments of money shall continue to be charged on the rates and taxes, rents and all other income and property of the Council to which the same were lent as aforesaid.

Loans by Government to Galle and Kandy Councils for waterworks.

323. (I) Sections 9, 10, 12, 17, 18, 19, 20, 21, 22, 23, 24, 33 and 34 of the Colombo Municipal Council Waterworks Ordinance shall apply to the Municipality of Galle.

Application of certain portions of the Colombo Municipal Council Waterworks Ordinance to Galle. [§ 2, Law 38 of 1973.]

(2) In the application of the above-named sections of the said Ordinance the following modifications shall have effect:—

(a) for the expression " the Waterworks Engineer " the word " Mayor " shall be substituted;

(b) so long as a rate shall be leviable under the provisions of the Galle Waterworks Ordinance, or any amendment thereof, section 18 of the Colombo Municipal Council Waterworks Ordinance shall be read as if there were substituted for the words " the Municipal Councils Ordinance " the words " the Galle Waterworks Ordinance. 1891 "•

(c) in section 33 of the Colombo Municipal Council Waterworks Ordinance the expression "the regulations made hereunder" shall be taken to refer to by-laws made or deemed to have been made under this Ordinance.

[§ 2, Law 38 of 1973.]

(3) The Municipal Council of Galle may by means of by-laws made and published in manner provided by this Ordinance apply to the Municipality of Galle, with such modifications as circumstances may require, any of the regulations contained in the Schedule to the said Colombo Municipal Council Waterworks Ordinance.

Application of certain provisions of the Colombo Municipal Council Waterworks Ordinance to Kandv. [§ 3, Law 38 of 1973.]

323A. (1) Sections 3, 4, 7 and sections 9 to 44 (inclusive) of the Colombo Municipal Council Waterworks Ordinance and the regulations set out in the Schedule thereto shall apply to the Municipality of Kandy, subject to the modifications set out in the Eleventh Schedule hereto.

(2) In the event of any conflict or inconsistency between the provisions made applicable to the Municipality of Kandy by subsection (1) and the provisions of any by-laws relating to waterworks applicable to such Municipality, the provisions made applicable by subsection (1) shall prevail over the provisions of such by-laws to the extent of such conflict or inconsistency.

Power of Minister to apply provisions of Colombo Municipal Council Waterworks Ordinance to Municipal Councils. [§ 3, Law 38 of 1973.] Construction of other written law.

323B. The Minister may, by Order published in the Gazette, apply to any Municipality all or any of the provisions of the Colombo Municipal Council Waterworks Ordinance with such modifications, to meet the requirements of that Municipality, as may be set out in the Order.

324. (1) Every reference, direct and indirect, in any written law which is applicable, or in any document or writing to any Municipality or any Municipal Council or to the Chairman, Assistant Chairman, members, officers or servants of any such Council shall, subject to the provisions of subsection (3), be construed respectively as references to the Municipality, or Council, or the Mayor, Deputy Mayor, members, officers or servants of the Council, as the

case may be, constituted, elected, or appointed by or under the provisions of this Ordinance or of any other written law for the time being applicable in that behalf.

(2) All powers, duties or functions conferred or imposed upon, or vested in, the Council or the Chairman, Assistant Chairman, Mayor, Deputy Mayor, members, officers or servants thereof by any other written law shall be exercised, performed and discharged subject to the provisions of this Ordinance.

(3) All powers, duties or functions which are required by any written law in force at the date of the commencement of this Ordinance to be exercised, performed or discharged, by the Chairman or by the Assistant Chairman shall on and after that date be exercised, performed, or discharged, subject to the provisions of this Ordinance, by the Council:

Provided that the preceding provisions of this subsection shall not be deemed to affect the powers of delegation vested in any Municipal Council by section 32.

325. (1) In any case where a Municipality for which a Municipal Council is constituted in accordance with the provisions of this Ordinance comprises the whole of the administrative area under the control of any local authority established under the Urban Councils Ordinance or the Town Councils Ordinance or the Village Councils Ordinance—

Municipal Councils to be successors of local authorities.

[§ 29, 48 of 1971.]

(a) the Municipal Council shall be the successor of such local authority for all purposes relating to such administrative area from the date of the constitution of the Council and such local authority shall be deemed to be dissolved on the date immediately preceding that date ;

(b) all licences and permits duly issued or granted by such local authority and in force at the said date, shall so far as they are not inconsistent with the provisions of this Ordinance be deemed to have been duly issued or granted by the Municipal Council under this Ordinance;

(c) all officers and servants in the service of such local authority at the date on which it is deemed to be dissolved as aforesaid, shall, subject to the provisions of the Local Government Service Law or of any regulations made thereunder, become officers and servants of the Municipal Council and shall, subject to the provisions aforesaid, hold their offices as nearly as practicable by the same tenor and upon the same terms and conditions as under the local authority:

Provided that the Municipal Council may abolish any post or office which it may deem unnecessary subject to—

- (i) in any case where the holder of the office or post at the time of its abolition is not a member of the Local Government service, the payment of such compensation as such holder would have been entitled to receive in like circumstances if his office or post had been abolished by such local authority or as may be determined by the Municipal Council; or
- (ii) in any case where such holder is a member of the Local Government service, the payment of such compensation or other award as he may be entitled to receive under the Local Government Service Law;

(d) all the rights, powers, duties, functions, privileges, responsibilities, protections, and immunities of or belonging to, or vested in, such local authority at the said date, shall, subject to the provisions of this Ordinance, be transferred and belong to, or be vested in, the Municipal Council in direct succession to such local authority and the Municipal Council shall in all respects whatsoever be deemed to be the successor of such local authority;

(e) all by-laws made by such local authority under the Urban Councils Ordinance or the Town Councils Ordinance, or the Village Councils Ordinance, as the case may be, and in force at the said date shall, in so far as they are not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be by-laws made by the Municipal Council under this Ordinance: [§ 29, 48 of 1971.]

Provided that, notwithstanding anything in this paragraph, any by-law made by any Urban Council or Town Council or Village Council prescribing the quorum for meetings of such Council shall not continue in force, and shall be taken not to have been in force on or after the 1st day of January, 1951, in relation to the Municipal Council which is or was the successor of the aforesaid Urban Council or Town Council or Village Council; [§ 29,48 of 1971.]

(f) all proclamations, orders, notifications, rules, regulations and by-laws of or affecting such local authority and published or made under any written law other than the enactment under which such authority was constituted, and in force at the said date shall, so far as they are not inconsistent with the provisions of this Ordinance, continue in force as if they had been published or made with relation to or in the exercise of the powers of the Municipal Council under this Ordinance, subject nevertheless to revocation or alteration by the Minister or by the Municipal Council, as the case may be ;

(g) all debts, liabilities and obligations incurred, and all contracts, deeds, bonds, agreements and other instruments executed or entered into, and all matters and things engaged to be done by, with or for, such local authority at the said date shall be deemed to have been incurred, executed, entered into or engaged to be done by, with or for the Municipal Council;

- (h) all rates, taxes, rents, tolls, fines, penalties and sums of money due to such local authority at the said date shall be deemed to be due to the Municipal Council;
 - (i) all suits, prosecutions, appeals or other legal proceedings, civil and criminal, instituted, or which might have been instituted, by or against such local authority at the said date may, subject to the provisions of this Ordinance and of any other written law, be continued or instituted by or against the Municipal Council;
 - (j) all decrees or orders made by any competent court in favour of, or against, such local authority prior to the said date shall be deemed to have been made in favour of, or against, the Municipal Council;
 - (k) the balance standing to the credit of the local fund of such local authority at the said date, and all interest or profits arising from any investment or transaction in connexion therewith, together with the total amount of any such investments, shall be transferred to and vested in the Municipal Fund of the Municipal Council;
 - (l) all assessments, valuations, measurements and divisions made by such local authority at the said date shall be deemed to have been respectively passed and made by the Municipal Council;
 - (m) all property movable or immovable which has been vested in, or legally purchased or acquired by, or leased to, or placed at the disposal of, or in any other manner transferred to such local authority, or which is held in trust for such local authority, or is in its possession or control at the said date shall be held by or in trust for the Municipal Council subject to the trusts, charges, liabilities, reservations, servitudes or other incumbrances and on the terms and conditions appertaining, attaching or applicable thereto at the said date;
 - (n) such local authority shall, during the last year of its term of office, settle and adopt the budget and assess and impose all rates, taxes and licence duties for the ensuing year in accordance with the provisions of the enactment under which such authority was constituted, and such budget, rates, taxes and duties shall, so far as they are not inconsistent with the provisions of this Ordinance, be deemed for all purposes to have been passed, assessed or imposed, as the case may be, by the Municipal Council under this Ordinance.
- (2) In any case where a Municipality for which a Municipal Council is constituted in accordance with the provisions of this Ordinance does not comprise the whole of the administrative area under the control of any local authority established under the Urban Councils Ordinance, or the Town Councils Ordinance, or the Village Councils [§29,48 of 1971.] Ordinance, the Minister may, by Order published in the Gazette, direct that the provisions of subsection (1) shall apply with such exceptions, adaptations and modifications, if any, as may be specified in the Order, and, in particular, without prejudice to the generality of the preceding provisions of this subsection, the Minister may, by any such Order, 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 Ordinance.
- (3) For the purposes of this section—
- " local authority "—
- (a) in relation to the Urban Councils Ordinance, means an Urban Council;
 - (b) in relation to the Town Councils Ordinance, means a Town Council.

[§ 29, 48 of 1971.]

(c) in relation to the Village Councils Ordinance, means a Village Council.

" canal" includes the full extent of waterway from bank to bank, together with the sides, towing paths, embankments, drains and ditches belonging thereto ;

Orders for transitional period.

326. (1) It shall be lawful for the Minister to make Orders providing for any unforeseen or special circumstances, or for determining or adjusting any question or matter, that may arise in connexion with the administration of the affairs of any Municipality or any Municipal Council for which no provision or no effective provision is made in this Ordinance.

" cart" means every vehicle drawn by a bullock or bullocks, or by a buffalo or buffaloes;

(2) All such Orders shall, upon publication in the Gazette, have the force of law and shall be as valid and effectual as if they were herein enacted.

" Commissioner", in relation to any Municipality, means the Municipal Commissioner of the Municipal Council constituted or deemed to be constituted under this Ordinance for that Municipality and includes any Deputy or Assistant Municipal Commissioner of such Council and any person appointed to act as such Municipal Commissioner or such Deputy or Assistant Municipal Commissioner, and any officer of such Council empowered by or under this Ordinance to exercise, perform or discharge any of the powers, duties or functions of the Commissioner to the extent to which such officer is so empowered ;

Interpretation.

327. (1) In this Ordinance, unless the context otherwise requires—

" annual value " * means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for any house, building, land, or tenement if the tenant undertook to pay all public rates and taxes, and if the landlord undertook to bear the cost of repairs, maintenance and upkeep, if any, necessary to maintain the house, building, land, or tenement in a state to command that rent:

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

Provided that in the computation and assessment of annual value no allowance or reduction shall be made for any period of non-tenancy whatsoever;

" Council" or " Municipal Council ", in relation to any Municipality, means the Municipal Council constituted or deemed to be constituted under this Ordinance for that Municipality;

" any repealed enactment" means any enactment repealed by the Municipal Councils Ordinance, No. 29 of 1947 ;

" Councillor" means a member of any Council;

bridge" includes any culvert, sluice, dam or bund•

" elections officer", in relation to any Municipality, means the elections officer appointed, under the provisions of the Local Authorities Elections Ordinance, for the administrative district in which such Municipality is situated and includes any assistant elections officer so appointed;

" building " includes any house, hut, shed or roofed enclosure, whether used for the purposes of a human habitation or otherwise, and also any wall;

* This definition of annual value shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

- " Local Government service " means the Local Government service constituted by the Local Government Service Law;
- " Magistrate" means any Magistrate having jurisdiction within a Municipality;
- " Mayor " and " Deputy Mayor " means respectively the Mayor and Deputy Mayor elected in accordance with the provisions of the Local Authorities Elections Ordinance.
- " medical officer of health" means any medical officer of health of a Council and includes any assistant medical officer of health of such Council and any person appointed to act as such medical officer of health or such assistant medical officer of health;
- " Municipality " means any area declared or deemed to have been declared to be a Municipality under section 2 of this Ordinance;
- " Municipal Magistrate", in relation to any Municipality, means the Municipal Magistrate appointed for such Municipality under this Ordinance and includes any additional Municipal Magistrate so appointed;
- " nuisance " includes any act, omission, or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger, or damage to the sense of sight, smell, or hearing, or which is or is likely to be dangerous or injurious to health or property;
- " owner " includes the person for the time being receiving the rent of the premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would receive the same if such premises were let to a tenant;
- " premises" includes all messuages, buildings, lands, and servitudes, and all servitudes shall be deemed to be part of the property to which they appertain, or in connexion with which they are enjoyed ;
- " prescribed " means prescribed by any by-law made or deemed to have been made under this Ordinance ;
- " private market" means any place (not being a public market) ordinarily used as a market for the sale of animals, or of meat, fish, fruit, vegetables, or other perishable articles of food for human consumption;
- " proper officer" means the officer in charge of any work executed or to be executed on or in connexion with any street by direction of a Municipal Council;
- " public" when applied to any drain, culvert, gutter, or watercourse, means vested in the Council;
- " public market " means any place which has heretofore been a public market under any repealed enactment or which may hereafter be declared to be a public market by resolution of the Council;
- " river" includes all public navigable streams, lakes, and all towing paths and embankments thereto belonging;
- " street " includes any road, square, court, alley, lane, or passage, river or canal, whether a thoroughfare or not, over which the public have a right of way, together with the land (not being State property or private property), whether covered or not by any pavement, verandah, or other structure, which lies between the roadway and the main wall of any house adjacent thereto, as well as all drains, embankments, and ditches belonging or appertaining thereto, also all public open places, and also the roadway over any public bridge or causeway within a Municipality, and such waste land adjoining any street or road as may have been reserved for its protection or benefit;

[§ 115, Law 24 of 1977.]

" vehicle" includes any carriage, cart, coach, or tram car, and every artificial contrivance, not being a mechanically propelled vehicle, used or capable of being used as a means of transportation on land ;

" work" includes the partial or total constructing, reconstructing, pulling down, opening, cutting into, adding to, and altering any building, wall, retaining wall, chimney stack, flue, scaffold, ground, road, well, drain, pier, wharf, fence, or any other like operation whatsoever.

(2) For the purposes of this Ordinance—

(a) a person shall be deemed to reside in, or to be a resident of, any place, if he has, and from time to time uses, a sleeping apartment in any building therein;

(b) a person shall not be deemed to cease to reside in, or to be a resident of, such place because he is sometimes absent from the said building or has, or from time to time uses, a sleeping apartment in a building in another place :

Provided that he is at liberty to return, and has not abandoned the intention of returning to such first-mentioned building at any time; and

(c) a reference to an Ordinance or enactment includes any enactment amending the Ordinance or enactment referred to, and any Ordinance or enactment substituted for it, and also rules, regulations, by-laws, notifications or orders made under any of such Ordinances or enactments and for the time being in force.

(3) For the purposes of this Ordinance—

(a) the construction or making of any street, building, drain, or work includes—

(i) every increase in the length or width or alteration in the level of any street;

(ii) every alteration which involves new foundations or increased superstructure on existing foundations;

(iii) the reconstruction of any building pulled down to or below the ground floor, or of any frame building, of which only the framework is left down to the ground floor, or of which one-half of the cubic capacity has been removed ;

(iv) the conversion into a dwelling house of any building not originally constructed for the habitation of any human being other than in the capacity of a caretaker;

(v) the conversion into more than one dwelling house of a building originally constructed as one dwelling house only ;

(vi) every increase in the length or alteration of the size of any drain, or any addition to the appliances connected therewith, or the re-laying of any drain or appliance; and

(b) the alteration of any street, building, drain, or other work includes every alteration in regard to any matter provided for under this Ordinance or under any by-law, regulation or rule in force at the time of such alteration.

(4) In determining for the purposes of [§ 2,4 of 1969.] this Ordinance the annual value of any premises to which the Rent Act applies, and in assessing the annual rent of such premises for the purposes of such determination, a Municipal Council shall not have regard to the provisions of that Act.

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FIRST SCHEDULE

[First
Schedule, 2 of
1978.]
[Section 167.]

OATH OF ALLEGIANCE AND OFFICE

I do solemnly affirm, swear that I will be faithful and bear true allegiance to the Republic of Sri Lanka and that I will well and truly serve the Republic of Sri Lanka and duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office as in accordance with the Constitution and with the law and that I will do all right to all manner of people after the laws and usages of the Republic of Sri Lanka, without fear or favour, affection or ill-will.

On this day of 19 at.....

Before me,

Justice of the Peace.

SECOND SCHEDULE

STAMP DUTIES AND FEES ACCORDED TO MUNICIPAL COUNCILS

[Section 185.]

1. All stamp duties and fees assigned to Municipal Councils by—
 - (a) the Boats Ordinance ;
 - (b) the Butchers Ordinance ;
 - (c) the Vehicles Ordinance ;
 - (d) any other enactment by which any special provision is made in that behalf.
2. All sums paid as fees or stamp duties in respect of licences authorizing the exercise of any right or privilege within the Municipality under—
 - (a) the Masters Attendant Ordinance ;
 - (b) the Poisons, Opium, and Dangerous Drugs Ordinance ;
 - (c) the Firearms Ordinance ;
 - (d) the Excise Ordinance ; and
 - (e) the Petroleum Ordinance.
3. All stamp duties paid by the inhabitants of the Municipality—
 - (a) being attorneys-at-law, on certificates of admission under section 40 <2> of the Judicature Act;
 - (b) being notaries, on warrants, certificates and declarations issued or made under the Notaries Ordinance ;
 - (c) being pawnbrokers on licences issued under section 3 of the Pawnbrokers Ordinance; [§ 9, 42 of 1979.]
 - (d) in respect of articles of apprenticeship or upon any contract whereby any person shall first become bound in order to qualify himself as a notary or a pharmacist.
- 3A. All stamp duties paid under the Stamp Ordinance* in respect of transfers, mortgage bonds, gifts and leases affecting any land situated within the administrative limits of the Municipal Council. [§ 9, 42 of 1979.]
4. All fees paid by the inhabitants of the Municipality for registration as auditors under the Companies Ordinance.†

* Repealed and replaced by the Stamp Duty Act, No. 43 of 1982.

† Repealed and replaced by the Companies Act, No. 17 of 1982.

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THIRD SCHEDULE

[Section 235.]

FORM OF NOTICE OF ASSESSMENT

Municipality of

No. _____ Municipal Office,
 To. _____ 19.....

Take notice that by virtue of the Municipal Councils Ordinance, the Municipal Council have ordered you to be assessed in respect of the under-mentioned property at the sums hereunder set forth ;—

Property assessed	Annual Value as assessed	Amount of Rate payable, and limes of payment in all for the Year
		On or before the day of 19, Rs.....
		On or before the day of 19, Rs.....
		On or before the day of 19, Rs.
		On or before the day of 19, Rs.....
		<i>Or as the case may be.</i>

Date of service;
 day of, 19

You are hereby required to pay the amount of the above rate (or rates) at the Municipal office in the proportions and at the times shown above; in failure whereof a warrant will be issued by the Municipal Council for the recovery of the same with costs.

[Section 245.]

FOURTH SCHEDULE

	Rs.	Cts.
[§ 10, 42 of 1979.] For every vehicle other than a motor car, motor tricar, motor lorry, motor bicycle, cart, handcart, jinricksha, bicycle, tricycle
For every bicycle or tricycle or bicycle car or cart, or tricycle car or cart—		
(a) if used for trade purposes	..	10 0
(b) if used for other than trade purposes	..	5 0
For every cart	..	20 0
For every handcart	..	10 0
For every jinricksha		7 50
For every horse, pony or mule	..	15 0
For every elephant	..	50 0

Children's vehicles the wheels of which do not exceed 26 inches in diameter, wheelbarrows, handcarts, used for trade purposes solely within private premises, and handcarts not used for trade purposes are exempted from payment.

In this Schedule, " trade purposes " includes the carriage or transport, in connexion with any business or trade and whether for sale or otherwise, of any article or goods of any written or printed matter.

FIFTH SCHEDULE

[Section 252.]

FORM OF WARRANT OF DISTRESS AGAINST DEFAULTERS

To _____ and his Assistants.

Whereas the persons named in the schedule underwritten have been rated by the Municipal Council (or been taxed under the section of the Municipal Councils Ordinance, *as the case may be*) at the sums opposite their respective names : And whereas the said persons have made default in

MUNICIPAL COUNCILS

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the payment of the said several sums to the Council, and the said sums are still due and owing, although notice demanding payment of the same was served on the said persons:

These are therefore to order you forthwith to seize the property of the said persons (or the movable property of any person whomsoever which you may find in or upon the premises in the said schedule mentioned); and if within the space of eight clear days next after the said seizures respectively the said several sums set opposite to their respective names, together with the costs leviable under section 255 of the said Ordinance, shall not be paid, then to sell the property seized by public auction, and the surplus (if any), after payments of the rate due (or tax, *as the case may be*) and costs, to restore to the owner or any joint owner of the property so sold ; and that you do certify to me on or before the day of what you shall have done by virtue of this warrant.

Schedule

Names of Defaulters	Description of Properties	Situation of Properties	Amount of Rate or Tax	Total

Given under my hand at ..,this day of 19

A.B.,
Municipal Commissioner. [§16,48 of 1971.]

(The form and schedule to be varied as may be necessary in the case of tax.)

SIXTH SCHEDULE

FORM OF WARRANT OF DISTRESS AGAINST DEFAULTERS

[Section 253.]

To .. and his Assistants.

Whereas the persons named in the first column of the schedule hereto are indebted to the Municipal Council in the sums specified in the second column of the said schedule for rent in respect of the premises specified in the third column of the said schedule, and such sums are fourteen days (*or more than fourteen days*), in arrears, these are therefore to order you forthwith to seize the property of the said persons within the Municipal limits or the movable property of any person whomsoever which you may find in or upon the premises in the said schedule mentioned ; and if within the space of eight clear days next after the said seizures respectively the said several sums set opposite to their respective names, together with costs leviable under section 255 of the Municipal Councils Ordinance, shall not be paid, then to sell, as near as may be, sufficient of the property seized by public auction, and the surplus proceeds of sale (if any), after payment of the rent due and costs, to pay, and any property remaining unsold to restore, to the owner, or any joint owner of the property; and that you do certify to the Council on or before the day of what you shall have done by virtue of this warrant.

Schedule

Names of Defaulters	Amount of Rent	Premises in respect of which Rent is due

N.B.—The two sets of words " fourteen days "anrf"more than fourteen days "to be used to suit the particular circumstances of the case.

A.B.,
Municipal Commissioner. [§17, 48 of 1971.]

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SEVENTH SCHEDULE

[Section 259.]

CERTIFICATE OF SALE

Whereas of was rated (or taxed, as the case may be) under the Municipal Councils Ordinance, and became liable to the Municipal Council of in the sum of rupees, inclusive of costs, and made default in the payment thereof:

And whereas warrant of distress was issued in conformity with the said Ordinance, and the property of the said to wit (here describe the property), was sold on the day of and the same was purchased by for rupees, which sum has been duly paid by the said

[§ 18, 48 of 1971-]

Now know Ye thai I, the Commissioner of the said Municipal Council, by virtue of the powers in me vested by the said Ordinance, do hereby certify that such sale and purchase have duly taken place, and that the property above described is and shall henceforward be vested free from all encumbrances in the said his heirs, executors, administrators, and assigns for ever.

Given under my hand at ..this day of 19

[\$18,48of 1971.]

A. A, Municipal Commissioner.

EIGHTH SCHEDULE

[Section 263.]

CERTIFICATE OF PURCHASE BY COUNCIL

Whereas the sum of rupees was due to the Municipal Council of by of for and on account of (here describe rate or tax), and a further sum of rupees was likewise due for costs and charges, which said sums have not been paid by the said

And whereas the land hereinafter described, belonging to the said was seized and sold in conformity with the provisions of the Municipal Councils Ordinance, and the same was purchased on the day of for and on behalf of the said Municipal Council in part satisfaction (or full, as the case may be) of the sum of rupees so due as aforesaid, and rupees for costs and charges:

[§ 19, 48 of 1971.]

Now know Ye that I, (the Commissioner of the said Municipal Council), by virtue and in exercise of the power vested in me in this behalf by the Municipal Councils Ordinance, do hereby certify that the following property, to wit: (here describe the property), has been sold to and purchased by the said for and on behalf of the said Municipal Council for the sum of rupees, which said sum has been duly credited to the said Council, and that the said premises are and shall henceforward be vested in the said Council free of all encumbrances.

Given under my hand at this day of 19.

[§ 19, 48 of 1971.]

A.B., Municipal Commissioner.

NINTH SCHEDULE

[Section 266.]

FORM OF NOTICE DETERMINING TENANCY

To

Whereas an amount of was payable by you to the Municipal Council of on the day of as rent in respect of premises and has not been paid, the Municipal Council of acting under section 266 of the Municipal Councils Ordinance, hereby determine the contract of tenancy existing between you and the Municipal Council of and hereby require you to quit the said premises at or before the expiration of a month from the date of service on you of this notice.

If you fail to quit the said premises as required by this notice, you and all persons occupying the premises under or with your permission will be ejected therefrom.

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TENTH SCHEDULE

FORM OF WARRANT OF EJECTION

[Section 266.]

To and his Assistants.

Whereas on the respective dates specified in the first column of the schedule hereto the Municipal Council of acting under section 266 of the Municipal Councils Ordinance, caused the persons named in the second column of the said schedule to be served with notices determining their respective tenancies of the premises specified in the third column of the said schedule and requiring them to quit such premises at or before the expiration of a month from the date of service : And whereas the said persons have not quitted the said premises in accordance with the said notice :

These are therefore to authorize you forthwith to eject from the said premises the persons named herein and all persons occupying the same under or with the permission of the persons named herein ; and that you do certify to the Council on or before the day of what you shall have done by virtue of this warrant.

Schedule

Dates of Service of Notice	Names of Persons served with Notice	Premises in respect of which Warrant is to be executed

ELEVENTH SCHEDULE

[§ 4. Law 38 of 1973.]

Modifications of the provisions of the Colombo Municipal Council Waterworks Ordinance in their application to the Municipality of Kandy.

[Section 323A.]

- (1) In section 7—
 - (a) for the expression " Municipality of Colombo," substitute the expression " Municipality of Kandy,";
 - (b) for the expression " Colombo Municipality, " substitute the expression " Kandy Municipality, " ; and
 - (c) for the expression " or pumps for the gratuitous use of the inhabitants of the Municipality for domestic purposes. ", substitute the expression " or pumps. " .
- (2) In section 13 omit the expression " and vested in the Council by this Ordinance " .
- (3) In section 14 for the expression "the Municipality of Colombo", substitute the expression "the Municipality of Kandy " .
- (4) In section 15, in subsection (1) thereof for the expression "Judge of the Primary Court of Colombo," substitute the expression " Judge of the Primary Court of Kandy, " .
- (5) In section 21 omit the expression " for other than domestic purposes. " .
- (6) In section 44—
 - (a) for the expression " Magistrate's Court of Colombo; " , substitute the expression " Magistrate's Court of Kandy; " ; and
 - (b) in the marginal note to that section, for the expression " Magistrate of Colombo " , substitute the expression " Magistrate of Kandy " .

(7) In the Schedule thereto—

(a) in regulation 4, substitute for all the words and figures from " Form A in this Schedule shall have been previously entered into with the Municipal Council. ", to the end of that regulation, of the following:—

** Form A or Form I in this Schedule, as the case may be, shall have been previously entered into with the Municipal Council:

Provided that pending the making of such an agreement, any agreement entered into by any person with the Council under the by-laws made by the Council shall for all purposes be deemed to have been entered into under these regulations. ";

(b) immediately after regulation 4, insert the following new regulation:—

"4A. No owner or occupier shall be provided with a private service of water for domestic purposes unless an agreement in the form G or H in this Schedule as may be applicable shall have been previously entered into with the Municipal Council by the owner or occupier. ";

(c) for regulation 17, substitute the following new regulation:—

" 17. All pipes and fittings used in the construction of any service shall, unless otherwise specified in these regulations, be of the thickness and quality approved by the Waterworks Engineer.";

(d) in regulation 31 for the expression "for other than domestic purposes", substitute the expression " for domestic or for other than domestic purposes ";

(e) for regulations 32, 33, 34, 35 and 36, substitute the following regulations :—

" 32. Water supplied to premises occupied wholly or in part for the following purposes shall be considered as supplied for other than domestic purposes, namely :—

(a) *Commercial Purposes Class 1*—for the purposes of conducting or carrying on any trade or manufactory where water is used exclusively for the benefit of persons engaged or employed therein, including Private Dental Clinics, Private Nursing Homes, Private Hospitals, Private Dispensaries and Private Surgeries.

(b) *Commercial Purposes Class 2*—conducting any trade or business where water is used for catering for persons other than those referred to in Class 1 above in furtherance of such trade or business and shall include the following:—

1. Hotels and Bakeries.
2. Eating Houses.
3. Restaurants.
4. Refreshment Rooms.
5. Private Boarding Houses (other than those attached to educational and religious institutions).
6. Private lodging houses (other than pilgrim rests).
7. Private hostels or Guest houses.
8. Liquor Bars.
9. Taverns.
10. Milk Bars.
11. Ice Cream Parlours.
12. Photographic Studios.

13. Canteens.
 14. Carnivals.
 15. Fairs.
 16. Clubs.
 17. Cinemas.
 18. Theatres.
 19. Places of Entertainments.
 20. Battery (electrical storage cells) repairers.
 21. Vegetable shops (other than those in the Municipal Central Market).
 21. Florists (other than those in the Municipal Central Market).
 23. Plant shops (other than those in the Municipal Central Market).
 24. Building works, road making or road repairing purposes, other than Municipal roads.
 25. Structural works.
 26. Hair Dressing Saloons.
 27. Public bathing places where fees are levied from persons using them.
 28. Swimming baths, or for watering gardens or compounds, where special appliances or connections are fixed permanently or temporarily to any service pipes or main for the purpose.
 29. Aquariums.
 30. Dairies.
 31. Piggeries, keeping of horses and cattle.
 32. Such other trade or business which the Council may by resolution declare, from time to time, as falling within this category.
- (c) *Industrial Purposes*—conducting or carrying on any trade or manufactory which chiefly depend on water and include the following :—
1. Factories, using water for cooling engines or generating steam.
 2. Factories utilizing water for manufacture of products.
 3. Aerated water manufactories.
 4. Ice manufactories.
 5. Dye Works.
 6. Laundries.
 7. Syrup manufactories and canning industries other than dry canning.
 8. Motor vehicles service stations, garages and workshops using water for washing vehicles, machinery and other equipment connected with the trade carried therein.
 9. Leather tanneries.
 10. Manufacturing of cement concrete articles.
 11. Bottle washing firms and distilleries.
 12. Liquor manufactories.
 13. Chemical manufactories.
 14. Electroplating works.
 15. Soap manufactories.
 16. Refrigeration rooms.

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- 17. Processing and packing establishments.
- 18. Brick, tile and ceramic manufactories.
- 19. Such other industries which the Council may by resolution declare, from time to time, as falling within this category.

33. All water supplied in bulk to local authorities, the Government Railway, Shipping lines and such other bulk supply which the Council may, from time to time, by resolution declare as falling within this category shall be considered as supplied for other than domestic purposes.

34. Every private service of water not falling within the categories hereinbefore mentioned shall be deemed to be supplies for domestic purposes.

35. The prices of water supplied by meter to premises shall be as follows:—

- A. For commercial purposes falling under—
 - Class 1—Re. 1.50 per 1,000 gallons.
 - Class 2—Re. 1.65 per 1,000 gallons.
- B. For industrial purposes at Re. 1.65 per 1,000 gallons.
- C. For bulk supplies at Re. 1.30 per 1,000 gallons.
- D. In the case of water supplied for domestic purposes to premises in respect of which consolidated rates or a fixed sum in lieu of such rates is not payable, the Council may make a charge at such rates as the Council may by resolution fix from time to time.
- E. For domestic purposes other than to premises referred to in item D at Re. 1 per 1,000 gallons.
- F. For temporary connections for a period not exceeding one month at Re. 1.65 per 1,000 gallons.

36. Where water is supplied other than by meter the Council may make an assessment based on the probable quantity of water used on the premises as determined by a temporary meter or as determined by the Waterworks Engineer. ”;

- (f) in regulation 40, for the expression " in regulation 35 (5), ", substitute the expression " in regulation 36, ";
- (g) in the Forms A and E for the expression " the Colombo Municipal Council **", substitute the expression "the Kandy Municipal Council ";
- (h) in the Form A—
 - (i) in paragraph 4 thereof, for the expression " thereunder shall ", substitute the expression " thereunder shall in so far as they apply to the Kandy Municipal Council "; and
 - (ii) for the expression " Signed at Colombo, " wherever that expression occurs in that Form, substitute the expression " Signed at Kandy, ";
- (i) In the Forms B, D, E and F for the expression " Colombo,..... 19 ", substitute the expression "Kandy,- , 19 ";
- (j) in the Form C for the expression " To the Waterworks Engineer, Colombo ", substitute the expression " To theWaterworksEngineer,Kandy. **";
- (k) in the Form E for the expression " Municipal Council of Colombo ", substitute the expression " Municipal Council of Kandy "; and

(i) immediately after Form F insert the following new Forms ;—

"FORM G

[Regulation 4A.]

AGREEMENT FOR SUPPLY OF WATER FOR DOMESTIC PURPOSES

Agreement for supply of water by meter or otherwise for domestic purposes to premises No
between
(name in full)

(hereinafter styled the " owner ") on the one part and the Municipal Council of Kandy on the other part.

2. In consideration of being allowed a supply of water for domestic purposes to the aforesaid premises, the owner hereby agrees to abide by the conditions hereinafter set forth :

- (a) That the water shall be supplied through a.....inch meter.
- (b) That the owner shall pay or cause to be paid the sum of Rupees.
a quarter, to the Municipal Council of Kandy as the rent of the meter.
- (c) That the owner shall pay or cause to be paid to the Municipal Council of Kandy, at the rate of Rupees
per thousand gallons, for the quantity of water supplied during each month.

3. The owner shall pay the estimated cost of such private services (if installed by the Municipal Waterworks Engineer) cost of installing the meter or meters, and also the estimated cost of all future repairs, extensions and alterations executed by the Council, upon payment being demanded by the Municipal Waterworks Engineer.

4. If the rent of the meter or charge for water supplied is not paid to the Municipal Council within thirty days from the due dale, the right to the separate service shall be forfeited and the Municipal Council may discontinue the supply.

5. The provisions of the Colombo Municipal Council Waterworks Ordinance and of the regulations made thereunder shall in so far as they apply to the Kandy Municipal Council be taken as part of this agreement and any regulations which may be made thereafter under any sections of the said Ordinance shall also be binding on the parties to this agreement.

6. The agreement may be determined by either party giving to the other party seven days' notice of his or its intention to determine the same. In the event of its being so determined, the owner of the premises shall not be entitled to the use of the separate service until a fresh agreement shall have been made.

7. The owner further undertakes to be responsible for the safety of the water meter and fittings thereto and agrees to make good any loss or damage to same.

8. A regular water supply to this premises will not be guaranteed, and in the event of a failure due to lack of pressure in the mains or for any other reason, the Council does not undertake to transport water to the aforesaid premises.

9. The owner shall give due notice whenever a change of occupiers is about to take place in respect of the aforesaid premises, and no occupier shall be entitled to the use of the service until he has entered into a fresh agreement with the Council.

Owner of the premises.

Witnesses:

- (1)
- (2)

No. Street.

Waterworks Engineer,
on behalf of the Municipal Council, Kandy.

Municipal Council,
Kandy.....19.

FORM OF AGREEMENT FOR SUPPLY OF WATER FOR DOMESTIC PURPOSES

Agreement for a supply of water by meter or otherwise for domestic purposes to premises No. between (not being the owner hereinafter styled " the occupier ") on the one part and the Municipal Council of Kandy on the other pan.

2. In consideration of being allowed a supply of water for domestic purposes to the aforesaid premises the occupier hereby agrees to abide by the conditions hereinafter set forth :

- (a) That the water shall be supplied by a inch meter.
(b) That the occupier shall pay or cause to be paid the sum of Rs. -a quarter to the Municipal Council of Kandy for the rent of the meter.
(c) That the occupier shall pay or cause to be paid to the Municipal Council of Kandy, at the rate of Rs. per thousand gallons for the quantity of water supplied during each month.

3. The occupier shall pay the estimated cost of service connection, installation of meter or meters and also the estimated cost of all future repairs thereto upon payment being demanded by the Municipal Waterworks Engineer.

4. If the rent of the meter or charge for water supplied is not paid to the Municipal Council within thirty days from the due date, the right to the separate service shall be forfeited and the Municipal Council may discontinue the supply.

5. The provisions of the Colombo Municipal Council Waterworks Ordinance and of the regulations made thereunder shall in so far as they apply to the Kandy Municipal Council be taken as part of this agreement and any regulations which may be made hereafter under any sections of the said Ordinance shall also be binding on the parties to this agreement.

6. The agreement may be determined by either party giving to the other party seven days' notice of his or its intention to determine the same. In the event of its being so determined the tenant of the premises shall not be entitled to the use of the separate service until a fresh agreement shall have been made.

7. The occupier further undertakes to be responsible for the safety of the water meter and fittings thereto and agrees to make good any loss or damage to same.

8. The occupier doth hereby deposit a sum of Rs. with the Municipal Council of Kandy which said sum may be set off against any dues in respect of water meter and any other charges due to the Council from the occupier.

9. A regular water supply to this premises will not be guaranteed and in the event of a failure due to lack of pressure in the mains or for any other reason the Council does not undertake to transport water to the aforesaid premises.

10. The occupier shall give due notice whenever he intends vacating the premises to the Municipal Council and the Council shall thereupon be entitled to cut off the water supply until a fresh agreement is entered into, with the Council by the incoming occupier.

Tenant/Occupier of premises. No. Street/Road.

Witnesses:

- (1)
(2)

Waterworks Engineer, on behalf of the Municipal Council, Kandy.

Municipal Council, Kandy,19....

MUNICIPAL COUNCILS

[Cap. 576

FORM I

[Regulation 4.]

FORM OF AGREEMENT FOR SUPPLY OF WATER FOR OTHER THAN DOMESTIC PURPOSES

Agreement for a supply of water by meter for other than domestic purposes between (hereinafter styled the " occupier ") on the one part and the Kandy Municipal Council on the other part.

2. In consideration of being allowed a supply of water for other than domestic purposes, namely, for (a), (b) and (c), to the aforesaid premises. the occupier hereby agrees to abide by the conditions hereinafter set forth:

- (a) that the water shall be supplied through a inch meter;
- (b) that the occupier shall pay or cause to be paid the sum of Rupees a quarter in the advance to the Municipal Council for the rent of the meter.....;
- (c) that the occupier shall pay or cause to be paid to the Kandy Municipal Council at the rate of Rupees per thousand gallons for the quantity of water supplied during each month. The first payment to be made on the first day of.....

3. If the rent of the meter or the charges for water are not paid to the Municipal Council within fifteen days from the due date, the right to the use of the service shall be forfeited, and the Municipal Council may discontinue the supply.

4. The provisions of the Colombo Municipal Council Waterworks Ordinance and of the regulations made thereunder shall in so far as they apply to the Kandy Municipal Council be taken as part of this agreement, and any regulations which may be made hereafter under any sections of the said Ordinance shall also be binding on the parties to this agreement.

5. The agreement may be determined by either party giving to the other party. days' notice of his or its intention to determine the same. In the event of its being so determined, either the owner or the occupier of the premises shall be entitled to the use of the service until a fresh agreement shall have been made.

6. The occupier further undertakes to be responsible for the safety of the water meter and fittings thereto and agree to make good any loss or damage to same.

7. The occupier doth hereby deposit a sum of Rs. with the Municipal Council of Kandy which said sum may be set off against any dues in respect of water meter and any other charges due to the Council from the occupier.

Signed at Kandy, t h i s day o f 19...

Occupier.

Waterworks Engineer,
on behalf of the Municipal Council, Kandy.

Witnesses to signatures

- (1)
- (2)

CHAPTER 531

MOTOR CARS (TAX ON TRANSFERS)

Law
No.13 of 1978,
Act
No. 15 of 1980.

A LAW TO IMPOSE AND LEVY A TAX ON THE TRANSFER OF CERTAIN MOTOR CARS,
AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[11th May, 1978.]

Short title.

1. This Law may be cited as the Motor Cars (Tax on Transfers) Law.

Registrar shall grant such approval if, but only if, the person specified in that application as the proposed transferee pays to the Registrar, the relevant tax payable on the transfer of a motor car to which this Law applies.

Prohibition on transfer of motor cars to which this Law applies without the written approval of the Registrar.

2. (1) No person who is the first registered owner of a motor car to which this Law applies shall transfer such motor car within the period of seven years from the date of the first registration of such motor car, unless he obtains the prior approval in writing of the Registrar ;

4. The relevant tax payable on the transfer of a motor car to which this Law applies shall be two thousand five hundred rupees.

Relevant tax payable on the transfer of a motor car to which this Law applies. [§ 2, 15 of 1980.]

Provided, however, that nothing in the preceding provisions of this section shall apply to a person who is the first registered owner of a motor car to which this Law applies, if a sum calculated in the manner specified in section 110 of the Finance Act, No. 11 of 1963*, has been paid to the Registrar, in respect of the sale of that motor car:

5. Where upon an application made under section 3 for the written approval of the Registrar for the transfer of a motor car to which this Law applies, the person specified in such application as the proposed transferee pays to the Registrar, the relevant tax payable on the transfer of such motor car, the Registrar shall, on application made in that behalf, refund to that person the amount of such tax less a sum of fifty rupees, if he is satisfied that the transfer in respect of which such tax was paid did not in fact take place. The Registrar shall at the same time cancel the written approval granted by him for the transfer of such motor car to that person.

Registrar to refund amount of tax paid if the transfer in respect of which the tax is paid, does not take place.

Provided further that nothing in the preceding provisions of this section shall be read and construed as prohibiting the first registered owner of a motor car to which this Law applies from transferring such motor car otherwise than by sale, prior to the date of commencement of this Law,

(2) A transfer of a motor car to which this Law applies in contravention of the provisions of subsection (1), whether such transfer is before or after the date of commencement of this Law, shall be null and void and of no effect in law.

6. (1) Where it appears to the Registrar that there has been a change of possession of a motor car to which this Law applies in consequence of a transfer of that motor car in contravention of the provisions of section 2, the Registrar may, by a notice in writing, require the person in possession of that motor car (in this section referred to as " the person in possession") to pay, within a period of one month from the date of receipt of such notice, the relevant tax payable on the transfer of that motor car, as

Power of Registrar to recover relevant tax from the person in possession, where there is a transfer of a motor car to which this Law applies in contravention of the provisions of section 2.

Registrar to grant written approval for transfer of a motor car to which this Law applies only on payment of the relevant tax.

3. Where a person who is the first registered owner of a motor car to which this Law applies makes an application, in such form as may be provided for the purpose by the Registrar, for the written approval of the Registrar for the transfer of that motor car to a person specified in that application as the proposed transferee, the

* Repealed by Law No. 13 of 1978.

MOTOR CARS (TAX ON TRANSFERS) [Cap. 531

if an application had been made to the Registrar under section 3 by the first registered owner of that motor car for the written approval of the Registrar for the transfer of that motor car to the person in possession, together with a penalty of an amount equal to twenty *per centum* of such tax.

(2) Where a person in possession fails to comply with the requirements of a notice sent under subsection (1) within a period of one month from the date of receipt by him of such notice, such person shall be deemed to be a defaulter and the amount of the tax specified in such notice shall be deemed to be in default, and the Registrar may issue a certificate containing particulars of the amount of the tax in default and the name and place of residence of the defaulter to a Magistrate having jurisdiction over such place. The Magistrate shall thereupon summon the defaulter before him to show cause why proceedings for the recovery of the amount of the tax in default should not be taken against such defaulter, and, if sufficient cause is not shown, the amount of the tax in default shall be deemed to be a fine imposed by such Magistrate on such defaulter and shall be recovered accordingly. The amount so recovered shall be remitted to the Registrar.

(3) Where the person in possession pays the amount of the relevant tax in compliance with a notice sent under subsection (1) or where the amount of the relevant tax is recovered from the person in possession under subsection (2), such person shall be entitled to be registered, under the provisions of the Motor Traffic Act, as the new owner of the motor car in respect of which such tax was paid or recovered, as the case may be: and upon such registration, the purported transfer in consequence of which the change of possession to such person occurred shall be deemed, for all purposes other than for the purpose of a prosecution under section 8, to be, and to have been, a transfer made with the prior written approval of the Registrar.

(4) For the purposes of subsection (2) and subsection (3), the expression "tax" includes the penalty imposed under subsection (1).

7. No person shall be entitled to be registered under the provisions of the Motor Traffic Act as the new owner of a motor car to which this Law applies, unless he satisfies the Registrar that either—

- (a) the transfer in consequence of which he became such new owner was with the prior written approval of the Registrar; or
- (b) no prior written approval of the Registrar was required under any provision of this Law for the transfer in consequence of which he became such new owner.

8. Any person who, being the first registered owner of a motor car to which this Law applies, purports to transfer such motor car in contravention of the provisions of section 2 shall be guilty of an offence under this Law and shall, on conviction after trial before a Magistrate, be liable—

- (a) to a fine of not less than six thousand rupees if the tare weight of such motor car does not exceed seventeen hundredweights;
- (b) to a fine of not less than twelve thousand rupees if the tare weight of such motor car exceeds seventeen hundredweights.

9. Where a motor car to which this Law applies has been purported to have been transferred by way of sale prior to the date of commencement of this Law and in contravention of the provisions of section 2, such motor car shall be deemed for all purposes to have been transferred with the prior written approval of the Registrar, if any person pays to the Registrar, within two months of the date of commencement of this Law, a sum equivalent to the relevant tax that would have been payable by the person to whom such motor car was purported to have been transferred had an application been made by the first registered owner of such motor car, after the date of commencement of this Law, for the written approval of the Registrar for the transfer of that motor car to that person.

10. All taxes collected by the Registrar under the provisions of this Law shall be credited by the Registrar to the Consolidated Fund.

Special provision in regard to the registration of motor cars to which this Law applies.

Offence.

Certain transfers made prior to the date of commencement of this Law deemed to be valid transfers if a sum equivalent to the relevant tax is paid to the Registrar within two months of the date of commencement of this Law.

Taxes collected under this Law to be credited to Consolidated Fund.

Provisions of this Law to prevail.

***12.** The provisions of this Law shall have effect notwithstanding anything to the contrary in any other law.

have the same meanings respectively, as in the Motor Traffic Act;

Interpretation.

13. In this Law—

"Registrar" means the Registrar of Motor Vehicles or any person authorized by him for the purposes of this Law;

[§ 3,15 of 1980.]

"motor car" means a motor vehicle, not being a motor cycle, motor ambulance, motor hearse, invalid carriage or three-wheeled passenger vehicle, which is constructed or adapted for the carriage of not more than eight persons (including the driver) and their effects and includes a trailer so constructed or adapted;

"transfer", with its grammatical variations and cognate expressions, when used in relation to a motor car to which this Law applies, includes—

"motor car to which this Law applies" means a motor car which is registered for the first time on or after November 15, 1970, being a motor car which was imported into, or manufactured or assembled in, Sri Lanka, and not being a motor car in respect of which no licence fee is payable on the issue of a revenue licence by reason of the operation of subsection (4) of section 31 of the Motor Traffic Act;

(a) a change of possession of such motor car arising by reason of a sale;

(b) a change of possession, on or after the date of commencement of this Law, of such motor car—

(i) arising by reason of a gift or mortgage; or

(ii) in consideration of money or money's worth under the terms of any agreement or arrangement, howsoever described.

[§ 3, 15 of 1980.]

"motor cycle", "motor ambulance", "motor hearse" and "invalid carriage"

* Section 11 repealing Part X of the Finance Act, No. 11 of 1963, is omitted.

CHAPTER 559
MENTAL DISEASES

Ordinances AN ORDINANCE TO MAKE FURTHER AND BETTER PROVISION RELATING TO THE CARE AND
 Nos. 1 of 1873. CUSTODY OF PERSONS OF UNSOUND MIND AND THEIR ESTATES.
 3 of 1882,
 3 of 1883.
 2 of 1889.
 13 of 1905.
 16 of 1919,
 3 of 1940.
 13 of 1940.
 11 of 1943.

Acts
 Nos. 14 of 1952.
 22 of 1955.
 27 of 1956.

[9th January, 1873.]

Short title. **1.** This Ordinance may be cited as the Mental Diseases Ordinance,

of unsound mind, it shall adjudicate accordingly :

Application to District Court to inquire into the state of mind of persons suspected to be of unsound mind.

2. Any officer of the police force, or grama seva niladhari, or any private person having reason to believe that a person is of unsound mind, may apply in writing to the District Court having jurisdiction over the place in which such person so suspected is found, that his state of mind be inquired into. An application by a private person should be accompanied by a certificate from a medical practitioner that the person so suspected has been under his observation, and that he believes him to be of unsound mind.

Provided that it shall be lawful for the court, should it deem it necessary to subject the suspected person to further observation, to remand the suspected person once or oftener for such reasonable time as shall be specified in the order of remand to the custody of the Fiscal; and Further observation.

Provided further, that it shall be the duty of the court so to remand such person in all cases where the court considers that the said person is of sound mind but two medical practitioners certify to the contrary.

Proceedings thereupon by the District Court.

3. (1) The District Court shall thereupon, with as little delay as possible, cause such person so suspected to be of unsound mind (hereafter called suspected person) to be brought before it, and, either then or at some other date for which the court may see reason to adjourn the inquiry, proceed to view and examine the said person, and, if need be, to hear evidence, to enable it to determine as to the state of mind of the said person.

(3) At the expiration of the time fixed for the remand the court shall hear evidence and find the said person of sound or of unsound mind as to it shall seem fit, and shall accordingly either discharge him or direct his further detention, as in section 5 provided.

(4) All persons so remanded shall be kept in such place as the Minister shall appoint, and shall be subject to the inspection of such persons as the Minister shall nominate. Places of further observation.

(2) If upon such view and examination, or other proof, the District Court shall be satisfied that such person is or is not

4. (1) Where a District Court, holding an inquiry under section 3 into the state of mind of a suspected person, deems it necessary to subject such person to further observation, and no house of observation within the jurisdiction of the court has been Continuation of inquiry after remand of a suspected person.

appointed by the Minister under that section, the court (hereinafter referred to as the original court) shall—

- (a) before remanding the suspected person for further observation, hear all such evidence as may at the time be available as to the state of mind of such person; and
- (b) after remanding the suspected person, transmit the record of the inquiry to the District Court (hereinafter referred to as the examining court) having jurisdiction over the place where the house of observation in which such person will be kept is situated.

(2) The examining court, on the expiration of the time fixed for the remand—

- (a) shall continue the inquiry and hear evidence relating to the further observation to which the suspected person was subjected, and may for the purposes of such inquiry further remand such person once or oftener for similar observation ; and
- (b) shall, after consideration of all the evidence recorded at all stages of the inquiry, adjudicate on the question whether the suspected person is of sound or of unsound mind.

(3) After the expiration of the time fixed for the remand, the inquiry into the state of mind of the suspected person shall not be continued, whether by the original court under section 3 or by the examining court under this section, except in the presence of such person:

Provided, however, that where the state of health or the behaviour of such person is such as to render either his presence or his participation in the proceedings in a court-house undesirable, the District Court by which the inquiry is continued may either dispense with the presence of such person at the inquiry or continue the inquiry at the house of observation where such person is kept.

(4) Where the examining court, after inquiry continued under this section, adjudges the suspected person to be of unsound mind, the court shall direct the further detention of such person until an order under section 5 is made in respect of that person by the original court, and shall forthwith return the record of the inquiry to the original court to enable that court to make such order.

(5) Where the examining court, after inquiry continued under this section, adjudges the suspected person to be of sound mind, that court shall make order discharging such person.

Where any person so discharged does not have the necessary means to enable him to return to his home or other place of residence, the court shall make order directing such person to be conveyed by Government to his home or other place of residence or allowed such reasonable batta or sum for his travelling expenses thereto as shall be approved by the Minister by any rule or order to be issued for that purpose. Any order made under this subsection may contain such further directions as the court may consider necessary to secure the safe return of the discharged person to his home or other place of residence, and the Fiscal shall give effect to such order.

(6) Any adjudication on the question whether the suspected person is of sound or unsound mind, and any order for the further detention or the discharge of the suspected person, made by the examining court under this section, shall be deemed for all purposes to be an adjudication or an order, as the case may be, made by the original court, and shall have effect accordingly.

5. (1) If any fit relative or friend is prepared to undertake to enter into sufficient security for the proper custody, care, and maintenance of the person adjudged to be of unsound mind, it shall be lawful for the court to order that the person so adjudged should be placed in his charge and under his control. But if not fit relative or friend will undertake as aforesaid, the District Court shall order that such person be kept in custody until the Minister's

If no relative or friend will undertake custody of such person, he shall be sent to a mental hospital.

pleasure shall be known; whereupon the Minister may issue his order to order the removal of such person to a mental hospital, and may give such further order for the safe custody of such person in such place or manner as to the Minister shall seem fit:

Provided that it shall be lawful for any relative or friend who shall have undertaken to enter into security as aforesaid, or who shall have entered into such security, to surrender such person to the court, whereupon it shall be the duty of the court to order that such person be kept in custody until the Minister's pleasure shall be known.

(2) Until the Minister's order shall be received it shall be the duty of the Fiscal to detain such person in the place appointed by the Minister for the reception of persons under remand for further observation.

Minister may, on petition of relatives, admit such persons (not being paupers) into mental hospital.

6. It shall be lawful for the Minister upon any petition being presented by any guardian or relative or friend of any person of unsound mind, requesting that such person may be admitted into a mental hospital, and offering to enter into security for the expenses of his care and maintenance, to issue his warrant to the Superintendent of such mental hospital to direct that such person shall, on being brought to such mental hospital, be examined by two medical practitioners named in such warrant, and upon their granting a certificate of such person being of unsound mind, that he shall be thereupon admitted into the mental hospital, to be therein taken care of and maintained until his recovery, or until application be made for his discharge by any relative or friend, as hereinafter provided, or failure of payment of the rate hereinafter required :

Bond to pay the daily allowance or rate, and contingent expense of such person.

Provided always that a bond with such security as the Minister shall require, previous to the admission of any such person, be given by his relative or friend for the due payment of such daily rate or allowance as may be fixed and declared payable by the general regulations of such mental hospital, on the reception therein of such person, together with all other expenses contingent upon the maintenance and care of such person during his continuance in such mental hospital, as well

as for the removal of such person within fourteen days after due notice given in writing by the Superintendent of such mental hospital to the said relative or friend of such person, or at his last place of abode ; and in default of any of the conditions of the said bond being duly performed, the amount due under such bond shall be deemed a debt to the State, and shall be recoverable as other debts due to the State.

7. (1) In any case where it appears to be necessary that a person suspected to be of unsound mind should, either for his own sake or that of the public, be forthwith placed under observation, an emergency order for the immediate removal of that person to a house of observation may be issued by any Justice of the Peace before whom he is produced. Emergency orders.

(2) The application for an emergency order shall—

- (a) in the case of a suspected person found wandering at large, be made by the police officer or grama seva niladhari by whom he is so found; and
- (b) in every other case, be made by the parent, guardian, spouse, brother, sister, or child, of the suspected person:

Provided, however, that where a suspected person has no parent, guardian, spouse, brother, sister, or child, able to make such application, it may be made by any other relative or by a friend or a person living with the suspected person.

(3) Every application for an emergency order shall be supported by the sworn testimony or affidavit of the applicant stating—

- (a) that the applicant has personally seen the suspected person within the forty-eight hours immediately preceding the time at which the application is made,
- (b) that such person appears to be of unsound mind, and is violent or uncontrollable, and

MENTAL DISEASES

(c) that the immediate removal of such person to a house of observation is necessary either for his own sake or that of the public.

(4) The Justice of the Peace to whom an application for an emergency order is made, shall, before he issues the order, satisfy himself by questioning or observing the suspected person or by such other inquiry as he may deem necessary, and shall set out in the order that he is satisfied—

(a) that there is reasonable cause for suspecting that person to be of unsound mind,

(b) that that person is violent or uncontrollable, and

(c) that the immediate removal of that person to a house of observation is necessary either for his own sake or that of the public.

(5) Every emergency order issued under this section shall specify the house of observation to which the suspected person is to be removed, and shall be sufficient authority for the Superintendent of that house of observation to admit the suspected person to that house of observation and to detain him therein for a period not exceeding two weeks.

(6) The Superintendent of a house of observation shall, within twenty-four hours of the admission of a suspected person into that house of observation on an emergency order, give information of the admission to the District Court having jurisdiction over the place where the house of observation is situated, and apply for an inquiry into the state of mind of the suspected person.

(7) The provisions of sections 3 and 4 shall apply to all proceedings upon an application made under subsection (6), and the discharge or the further detention of the suspected person shall be in accordance with such order as may be made by the court under those sections.

(8) (i) Nothing in this section shall be deemed to prohibit the Superintendent of a house of observation from refusing to admit

into that house of observation on an emergency order any person whose admission or detention appears to him to be inadvisable or unnecessary, or from discharging at any time before the commencement of the inquiry under section 3 any person admitted on an emergency order.

(ii) Where any person admitted on an emergency order is discharged under paragraph (i) of this subsection, it shall be the duty of the Superintendent to give within twenty-four hours information of the discharge to the District Court mentioned in subsection (6).

8. (1) When application at any time by any guardian or relative or friend of a person of unsound mind confined in any mental hospital, or in the custody of the Fiscal for the purpose of being transferred to a mental hospital (not being under any criminal warrant) shall be made to the Minister, requesting that such person may be delivered over to the care and maintenance of such relative or friend, it shall be lawful for the Minister, if he shall see fit to do so, and upon such reasonable security as may be required being given by such guardian or relative or friend to take care of and maintain such person, to direct the immediate discharge of such person.

Relatives may take persons confined in mental hospital under their own care.

(2) Upon the recovery of any person confined in a mental hospital (not being under any criminal warrant) and such recovery being certified by the medical officer in charge of such mental hospital, he shall be discharged by order of the Superintendent of such hospital; and in all cases where any such person shall have been removed under the provisions of this Ordinance to any"mental hospital out of the district to which he belongs, such person shall, if he does not have the necessary means to enable him to return to his home or other place of residence upon being discharged from such mental hospital upon his recovery, be conveyed back by Government to his home or other place of residence, or be allowed such reasonable batta or sum for his travelling expenses thereto as shall be approved by the Superintendent of such hospital.

Discharge on recovery.

Any order of discharge made by the Superintendent under this subsection may contain such directions as the Superintendent may consider necessary to secure the safe return of the discharged person to his home or other place of residence, and the Fiscal shall give effect to such order.

hospital shall be situated. And if the said District Court shall, upon inquiry, be satisfied that such person is still of unsound mind, and that it is necessary to continue to keep him under control, the said District Court may order such person to be detained in the mental hospital until discharged therefrom by order of the Minister.

Prisoners under sentence in jail on becoming of unsound mind to be removed to mental hospital.

9. (1) If any person under imprisonment in any jail shall become of unsound mind, and a report shall be made to the Minister in charge of the subject of Justice by the Fiscal of the District Court within whose jurisdiction the said jail is situated, with a certificate of the medical officer thereof, that such person is of unsound mind, it shall be lawful for the Minister in charge of the subject of Justice to direct by warrant under his hand that such person shall be removed to the mental hospital named in such warrant, to be there detained until the expiration of the sentence under which such person may have been imprisoned.

11. (1) In all cases where a person of unsound mind is kept in custody and removed to a mental hospital under section 5, the Superintendent of that hospital shall forward forthwith the name of the person, and such other particulars as may be available, to the Government Agent of the administrative district or each of the administrative districts in which that person previously resided or was found wandering.

Inquiry as to property and circumstances in cases where no security is given.

(2) The Government Agent or Agents shall thereupon cause investigations to be made and shall report to the District Court, by which the person was ordered to be kept in custody, whether that person is possessed of any property which can be applied for his maintenance, or whether there is any relative or guardian who is able and legally bound to maintain that person.

If they recover before expiration of sentence, they shall be removed to jail.

(2) If any person shall become of sound mind before the expiration of his sentence, of which the period of his detention in such mental hospital shall be reckoned as part, the Minister in charge of the subject of Justice shall thereupon issue his warrant to the Superintendent of the mental hospital, directing that such person shall be removed back from thence to the jail or other place of confinement from whence he shall have been taken, or shall give such other orders thereon as to the Minister in charge of the subject of Justice shall seem fit. And the Fiscal from whose custody any person shall be removed to such mental hospital shall, at the time of delivering over such person, furnish the Superintendent of such mental hospital with a copy of the sentence under which such person shall have been imprisoned.

(3) On receipt of the report or reports made under subsection (2), the District Court shall hold an inquiry as to the property or such other circumstances of that person as may be referred to or set out in the report or reports.

Further proceeding at expiration of sentence, if the person shall not have recovered.

10. The Superintendent of any mental hospital to which any person shall have been removed under the provisions of the preceding clause, and who shall not have recovered, shall, at least fourteen days before the expiration of the sentence under which such person shall have been imprisoned, report the same to the District Court of the district in which such mental

12. (1) If at the inquiry held under section 11, the District Court is satisfied that the person kept in custody in the mental hospital is possessed of property sufficient in value and capable of being applied for his maintenance, the court shall—

Maintenance of persons in custody out of their own property,

(a) appoint a manager of the estate of such person or direct that the property be realized and dealt with, as provided in section 567 or section 577 of the Civil Procedure Code, as the case may be ; and

(b) order such portion of the property to be appropriated for the maintenance and care of that person, as may be necessary

according to the allowance or rate fixed and declared to be payable under the general regulations made by the Minister for that mental hospital;

and the manager so appointed or, as the case may be, the person to whom any money or the proceeds of any property realized under the order of the court has been paid, shall thereafter be responsible for the payment, at the rate specified in the order of the court, of the expenses of the maintenance and care of that person while he is kept in custody in the mental hospital.

or by persons able and legally bound to support them.

(2) Where the District Court is satisfied that the person kept in custody in the mental hospital is not possessed of any property but that there is a relative or guardian able and legally bound to maintain that person, the court shall call upon such relative or guardian to show cause why he should not be ordered to pay the whole or any reasonable part of the expenses of the maintenance and care of that person, and if sufficient cause is not shown, the court may make order accordingly ; and every order so made shall, upon the application of the Superintendent of the mental hospital, be enforced in accordance with the provisions of section 8 of the Maintenance Ordinance, by any Family Court* having jurisdiction over the place of residence for the time being of the relative or guardian bound by the order.

Proceedings exempt from stamp duty.

13. No stamp duty shall attach or be payable for any application, process, or other document filed in court under the provisions of this Ordinance.

Appointment of Visitors.

14. (1) It shall be lawful for the Minister to nominate and appoint one or more fit and proper persons to be Visitors of any mental hospital, and any Visitor so appointed to remove and to appoint another in his stead.

Duties of Visitors.

(2) Every Visitor so appointed shall be at liberty to enter at all times any such mental hospital and to make such inquiries or examination therein as to him shall appear necessary; and Visitors are hereby

required to visit such mental hospital at least once in every month, unless prevented by illness or other sufficient cause, and from time to time, to make such reports to the Director of Health Services as may be required by order of the Minister.

(3) Any Superintendent or keeper of such mental hospital or other person, who shall at any time refuse admittance to any such Visitor or offer to him any hindrance or obstruction, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees.

Penalty for refusing admittance to Visitors, or obstructing them.

15. It shall be lawful for the Minister, to make, from time to time, such regulations as to him shall seem expedient for the management and conduct of any mental hospital established in Sri Lanka, and of the officers and Visitors thereof.

Minister to make regulations for conduct and management of mental hospitals.

16. (1) If any person detained in a mental hospital under the provisions of this Ordinance, and not being an insane criminal, escapes, he may be retaken at any time within fourteen days of his escape by the Superintendent of the mental hospital, or by any officer or servant thereof, or by anyone authorized in writing by such Superintendent, and conveyed to, received, and detained in such mental hospital.

Person escaping from mental hospital may be retaken by Superintendent within fourteen days.

(2) In the case of the escape of an insane criminal, the provisions of the last preceding subsection shall apply without any limitation as to time.

17. In any case in which a person detained in a mental hospital, and not being an insane criminal, has escaped, and is not taken within the period of fourteen days prescribed by section 16, the Superintendent of such mental hospital may apply to the District Judge within the limits of whose jurisdiction such mental hospital is situated, for authority to retake such person. If the District Judge to whom such application is made shall, after making such inquiry, if any, as he may deem necessary, grant such authority, such Superintendent or anyone authorized in writing by him may retake such person, and such person may be conveyed to, received, and detained in the mental hospital.

Person escaping from mental hospital, not being an insane criminal, may be retaken after fourteen days with authority of District Judge.

* The jurisdiction of the Family Court in maintenance matters has since been removed from such Court by the Judicature (Amendment) Act, No. 71 of 1981, and revested in the Magistrates' Courts.

Absence on trial.

18. (1) The Minister in charge of the subject of Justice may, on the recommendation in writing of the Superintendent of a mental hospital, permit, by order, any person detained in a mental hospital, and not being an insane criminal, to be absent on trial for a period to be named in such order.

(2) If at any time within the period mentioned in such order it appears to such Superintendent that the further detention of such person in the mental hospital is necessary, such Superintendent, or any person authorized by him in writing, may take such person, and such person may thereupon be conveyed to, received, and detained in the mental hospital.

(3) (a) At the expiration of the period mentioned in any such order, such person shall, unless he has been received into the mental hospital under the provisions of the last preceding subsection, return to the mental hospital, and the Superintendent shall examine him, and may thereupon either direct his further detention in the mental hospital, or order him to be discharged.

(b) If such person does not return to the mental hospital at the expiration of the period for which he was allowed to be absent on trial, he may at any time within fourteen days of the expiration of the period of trial be retaken, as in the case of an escape.

Right of appeal from order of District Court.

19. Every order made by a District Court under the provisions of this Ordinance shall be subject to an appeal to the Court of Appeal.

Who may prosecute appeal.

20. Such appeal may be prosecuted by or at the instance—

- (a) of the person suspected or adjudged to be of unsound mind ; or
- (b) of any relative or friend of the person suspected or adjudged to be of unsound mind ; or
- (c) of the Attorney-General or of any State Counsel; or

- (d) of the Inspector-General of Police; or
- (e) of the Director of Health Services; or
- (f) of the Commissioner of Prisons; or
- (g) of any medical practitioner who shall have certified or testified to the state of mind of the person suspected or adjudged to be of unsound mind.

21. The time for, the rules of, and the practice relating to the filing and forwarding of an appeal from an interlocutory order of the District Court shall apply to appeals prosecuted under this Ordinance.

Appeal to follow rules for appeals from interlocutory orders.

22. The Court of Appeal shall take cognizance of such appeal and deal with the same as an appeal from an interlocutory order of the District Court, and make such order thereon as to the Court of Appeal shall seem fit. And it shall be the duty of the District Court to conform to and execute such order,

Duty of Court of Appeal and District Court in case of appeal.

23. (1) Any person of the age of not less than sixteen years who is desirous of voluntarily submitting himself to treatment for mental illness may, if he makes a written application for the purpose to the Superintendent of any mental hospital, be received as a voluntary patient in that hospital.

Power to receive voluntary patients in mental hospitals.

(2) Any person under the age of sixteen years whose parent or guardian is desirous of submitting him to treatment for mental illness may, if the parent or guardian makes a written application for the purpose accompanied by a medical recommendation to the Superintendent of any mental hospital, be received as a voluntary patient in that hospital.

(3) The medical recommendation referred to in subsection (2) shall—

- (a) be signed by a medical practitioner; and ,

(b) state the qualifications of such practitioner, the date or dates on which he examined the person to whom the recommendation relates, and that such person is likely to be benefited by being received as a voluntary patient for treatment in a mental hospital.

(4) A medical recommendation from a medical practitioner shall cease to have effect for the purposes of this section on the expiration of fourteen days after the last date on which the person to whom the recommendation relates was examined by such practitioner for the purpose of making the recommendation.

Voluntary patient may leave mental hospital upon giving notice of intention to do so.

24. Any person received as a voluntary patient in a mental hospital may leave that hospital upon giving to the Superintendent of that hospital seventy-two hours' notice in writing of his intention to do so, or, if he is under the age of sixteen years, upon such notice being given by his parent or guardian.

Notice to the Director of Health Services of the reception, death and departure of voluntary patients.

25. (1) Where any person is received as a voluntary patient in any mental hospital, notice of his reception shall, before the expiration of the second day after the day on which he was so received, be sent to the Director of Health Services by the Superintendent of that hospital.

(2) Where any person received as a voluntary patient in any mental hospital leaves that hospital or dies therein, notice of the departure or death shall, before the expiration of the second day after the date of the departure or death, be sent to the Director of Health Services by the Superintendent of that hospital.

Reports from the Superintendent of a mental hospital on voluntary patients under the age of sixteen years.

26. Where a person who is under the age of sixteen years and who has been received as a voluntary patient in any mental hospital ceases to have any parent or guardian, or if his parents or guardians are incapable of performing, or refuse or persistently neglect to perform, their duty as such, the Superintendent of that hospital shall send to the Director of Health Services a report as to the circumstances of the case and the condition of the patient, and the Director of Health Services shall forthwith consider the report and give such directions with respect to the case as he thinks fit.

27. (1) Where a person received as a voluntary patient in a mental hospital becomes at any time incapable of expressing himself as willing or unwilling to continue to receive treatment, such person—

Discharge of voluntary patients from mental hospitals.

(a) shall not thereafter be retained as a voluntary patient in that hospital for a longer period than twenty-eight days, and

(b) shall, if he has not been previously discharged, be discharged from that hospital upon the expiration of a period of twenty-eight days from the date on which he became incapable of so expressing himself unless in the meantime he has again become capable of so expressing himself, or steps have been taken to deal with such person under this Ordinance either as a person of unsound mind or as a person suffering from mental illness who is likely to benefit by temporary treatment in a mental hospital.

(2) Where the Superintendent of any mental hospital is of opinion that the mental state of a person received as a voluntary patient in that hospital is such as to render it unnecessary for that person to remain as a voluntary patient in that hospital, the Superintendent may discharge that person from that hospital.

(3) Where the Superintendent of any mental hospital is of the opinion that the mental state of a person received as a voluntary patient in that hospital is such as to render that person unfit to remain as a voluntary patient in that hospital, the Superintendent may either discharge that person from that hospital or take steps to deal with that person under this Ordinance either as a person of unsound mind or as a person suffering from mental illness who is likely to benefit by temporary treatment in a mental hospital.

28. (1) Subject to the other provisions of this section, a person who is suffering from mental illness and is likely to benefit by temporary treatment in a mental hospital but is for the time being incapable of expressing himself as willing or unwilling to

Power to receive temporary patients in mental hospitals.

receive such treatment may, on a written application made under this section, be received as a temporary patient in any mental hospital for the purpose of treatment.

(2) An application to receive a person as a temporary patient in any mental hospital for the purpose of treatment—

- (a) shall be in the form set out in the Schedule;
- (b) shall be made to the Superintendent of that hospital;
- (c) shall, if possible, be made by the spouse or a relative of such person, or, on the request of such spouse or relative, by any other person, and, if the application is not so made, shall contain a statement of the reasons why it is not so made. of the connection of the applicant with such person and of the circumstances in which the applicant makes the application; and
- (d) shall be accompanied by a recommendation by each of two medical practitioners in the form set out in the Schedule.

(3) Each of the medical practitioners by whom a recommendation under this section is to be made shall, before signing the recommendation, examine the person to whom the recommendation relates either separately or in conjunction with the other and shall specify in the recommendation the date on which he so examined such person and the grounds on which he bases his recommendation.

(4) A recommendation made by two medical practitioners under this section in respect of any person—

- (a) shall be of no effect for the purposes of this section if there is a greater interval than five days between the dates on which such person was examined by such practitioners respectively, and

(b) shall cease to have effect on the expiration of fourteen days after the date on which such person was examined by such practitioners, or if he was examined by such practitioners on two different dates, on the expiration of fourteen days after the latter of those dates.

29. (1) Where any person is received as a temporary patient in any mental hospital, notice of his reception shall, before the expiration of the second day after the date on which he was so received, be sent to the Director of Health Services by the Superintendent of that hospital.

Notice to the Director of Health Services of the reception, death and departure of temporary patients.

(2) Where any person received as a temporary patient in any mental hospital leaves that hospital or dies therein, notice of the departure or death shall, before the expiration of the second day after the date of the departure or death, be sent to the Director of Health Services by the Superintendent of that hospital.

30. (1) Subject to the other provisions of this section, a person received as a temporary patient in any mental hospital may be detained in that hospital for a period not exceeding one year but shall not be detained as such for any longer period.

Detention and discharge of temporary patients.

(2) Where any person received as a temporary patient in any mental hospital becomes capable of expressing himself as willing or unwilling to continue to receive treatment, he shall not thereafter be detained in that hospital as a temporary patient for more than twenty-eight days unless in the meantime he has again become incapable of so expressing himself.

(3) Where it is anticipated that a person who is undergoing treatment as a temporary patient in any mental hospital will not recover within a period of one year but his early recovery appears reasonably probable, he may, upon application made on his behalf in accordance with subsection (4), be detained in that hospital as a temporary patient beyond one year for such period not exceeding three months, or for such periods not exceeding six months in the aggregate, as may be determined by the Superintendent of that hospital.

(4) An application under subsection (3) in respect of any person shall, if possible, be made by the spouse or a relative of such person, or, on the request of such spouse or relative, by any other person, and, if the application is not so made, it shall contain a statement of the reason why it is not so made, of the connection of the applicant with such person and of the circumstances in which he makes the application.

(5) Where the Superintendent of any mental hospital is of opinion that the mental state of any person received as a temporary patient in that hospital is such as to render it unnecessary for such person to remain as a temporary patient in that hospital, the Superintendent may discharge such person from that hospital.

(6) Where the Superintendent of any mental hospital is of opinion that the mental state of any person received as a temporary patient in that hospital is such as to render that person unfit to remain as a temporary patient in that hospital, the Superintendent may either discharge that person from that hospital or take steps to deal with that person under this Ordinance as a person of unsound mind.

Power of the Director of Health Services to order discharge, &c., of voluntary and temporary patients.

31. The Director of Health Services may at any time order—

- (a) that any person received as a voluntary patient, or a temporary patient, in any mental hospital shall be discharged from that hospital, or
- (b) that steps shall be taken to deal with such patient under this Ordinance as a person of unsound mind,

and it shall be the duty of the Superintendent of that hospital to comply with that order.

Power to vary, &c. forms in the Schedule.

32. The Minister may, by Order published in the Gazette, amend or replace any of the forms set out in the Schedule.

33. For the purposes of this Interpretation. Ordinance—

(a) every person shall be deemed to be of unsound mind who is so far deranged in mind as to render it necessary that he, either for his own sake or that of the public, should be placed under control; and

(b) "house of observation" means a building or part of a building appointed by the Minister under section 3 as a place for the observation of the behaviour of persons suspected to be of unsound mind;

"medical officer" means a medical practitioner who is an officer of the Department of Health;

"medical practitioner" means a person registered as a medical practitioner under the Medical Ordinance.

(c) "insane criminal" means any of the following persons:—

(i) any person who is confined or continued in confinement in a mental hospital under the provisions of section 9 or section 10 of this Ordinance; and

(ii) any person who is ordered to be confined in a mental hospital under the provisions of section 376 (2) or section 381 of the Code of Criminal Procedure Act.

34. Every reference to a "criminal lunatic" in any written law or document relating to this Ordinance shall be read and construed as a reference to an "insane criminal" within the meaning of that expression as used in this Ordinance.

Substitution of the expression "insane criminal" for "criminal lunatic" in any written law.

MENTAL DISEASES

[Cap.559

[Section 28.]

SCHEDULE

FORM OF APPLICATION FOR THE RECEPTION OF A TEMPORARY PATIENT

1. I, hereby request you to receive as a temporary patient into

2. I am related to the said in the following manner :—

or,

make this application at the request of , who is related to the said in the following manner:—

I am not related to the said The reasons why this application is not made by a relative of the said and my connection with him. and the circumstances under which I make this application, are as follows ;

3. Annexed hereto is a recommendation for the temporary treatment of the said signed by

Signed

Date

To

[Section 28.]

FORM OF RECOMMENDATION FOR TEMPORARY TREATMENT

Recommendation for the temporary treatment of of

1. I, of hereby declare as follows :—

(a) I am a registered medical practitioner.

(b) I examined the said on the day of 19

(c) *I have formed the following conclusions on the following grounds :—

2. I further declare as follows :—

(a) The said —

(i) is suffering from mental illness;

(ii) is likely to benefit by temporary treatment;

(iii) is for the time being incapable of expressing himself as willing or unwilling to receive such treatment.

(b) It is expedient with a view to the said 's recovery that he should be received into for a period not exceeding one year.

Signed

Medical qualifications

Date

* A person, in specifying the grounds on which his conclusions are based, must carefully distinguish between statements of fact which are based upon his own observations and statements of fact which are based upon communications made to him by others.

CHAPTER 566

MUNICIPAL DAIRIES AND LAUNDRIES

Ordinances AN ORDINANCE TO PROVIDE FOR THE SUPERVISION OF MUNICIPAL DAIRIES AND
 Nos. 1 of 1896, LAUNDRIES.
 7 of 1902,
 6 of 1910,
 29 of 1947,
Act
 No. 12 of 1952.

[7th February, 1896.]

Short title. **1.** This Ordinance may be cited as the
 Municipal Dairies and Laundries
 Ordinance.

distribution of milk, at the time
 prescribed in any regulations for the
 time being in force under this
 Chapter, and to enter the date and
 result of every such inspection in
 the register;

CHAPTER I

SUPERVISION AND REGULATION
 OF DAIRIES

Duties of
 Municipal
 Council to
 keep a register
 of all dairymen
 and milk
 vendors.
2. It shall be the duty of the Municipal
 Council—

- (a) to keep a register of the names and
 addresses of all dairymen and milk
 vendors selling or supplying milk to
 any person or persons resident
 within the Municipality, and of all
 dairy premises and milk stores used,
 from time to time, by each of them
 for the production, deposit, or
 distribution of such milk;
- (b) to strike off such register the names
 and addresses of all persons who
 shall have ceased, or become
 disqualified as hereinafter provided,
 to carry on the business of
 dairymen or milk vendors ;
- (c) to keep such register open at all
 reasonable times for inspection by
 the Director of Health Services or
 any officer appointed by him in
 writing, and to furnish any extract
 from the same that he may require ;
- (d) to cause to be inspected all such
 dairy premises and milk stores, and
 the cattle, appliances, and utensils
 therein used for the production or

- (e) to furnish in the month of January
 of each year to the Director of
 Health Services a report of the
 Municipal Council's proceedings
 under this Chapter in respect of the
 supervision and regulation of
 dairies during the preceding twelve
 months, in such form as may be
 prescribed by any regulation for the
 time being in force under this
 Chapter.

3. (1) The Mayor of the Municipal
 Council shall have the following powers in
 addition to any other powers in this
 Ordinance conferred, namely:—

Powers of
 Mayor of the
 Municipal
 Council to
 enter dairy
 premises or
 milk stores.

- (a) to enter or authorize the entry at all
 reasonable times into or upon any
 dairy premises or milk store for the
 purpose of making any inspection
 by this Chapter authorized, to take
 away samples of the milk there
 found, and of the water of any well
 or other source of water supply
 therein or thereon, for the purpose
 of examination or analysis only;
- (b) to require any dairyman or milk
 vendor, by notice in writing, to
 cleanse and maintain in a sanitary
 condition his dairy premises or milk
 store and any utensils therein used
 as aforesaid;

MUNICIPAL DAIRIES AND LAUNDRIES

- (c) to require any dairyman or milk vendor, by notice in writing, to close any well or other source of water supply in or on his dairy premises or milk store, or used in connexion therewith, which is so polluted or unwholesome as to be unfit for human consumption, and to wholly discontinue the use of the water thereof for any purpose whatsoever, for such period as the Mayor shall direct, or to fill up the said well or source of water supply and keep the same so filled up ;
- (d) to refuse or cancel the registration of any dairyman or milk vendor in respect of any dairy premises or milk store which is in an insanitary condition, or in which the provisions for lighting, ventilation, drainage, lavatory, and privy accommodation or water supply are not such as are necessary for health, or for the cleanliness of the appliances and utensils used therein, or for the protection of any milk therein against infection or contamination.

(2) For the purposes of this section the term "the Mayor of the Municipal Council " shall include the medical officer of health of the Municipality.

Dairymen and others to apply for registration.

4. Every dairyman and milk vendor engaged in the sale or supply of milk to any person or persons in any Municipality at the time of this Ordinance coming into force shall within three months of such time, and every dairyman and milk vendor thereafter commencing to engage in such sale or supply shall, before so commencing, apply to the Municipal Council to cause to be entered on the register for that Municipality his name and place of residence, and the locality of every dairy premises and milk store used or to be used by him, and thenceforward, from time to time, any change of such residence, or discontinuance by him to use any former, or commencement by him to use any other, dairy premises or milk store, and immediately upon such registration, and whilst the same continues in force, shall in some conspicuous place affix to and maintain in legible letters his

name and the words " Registered Dairyman " or " Registered Milk Vendor ", as the case may be, upon every dairy premises or milk store in respect of which he is so registered, and to and upon every cart or other vehicle used by him for the distribution of milk.

5. It shall not be lawful for any person to sell or supply milk to any person or persons in any Municipality if his name and place of residence, and every dairy premises and milk store used for the purpose of the production, deposit, or distribution of any such milk, are not entered upon the register for that Municipality;

Unregistered persons forbidden to sell or supply milk.

Provided that persons engaged in the sale or supply of milk in any Municipality at the time of this Ordinance coming into force shall not be affected by the provisions of this section until after the lapse of three months from such time.

6. On the appearance of any case of infectious disease in man or beast in any dairy premises or milk store, the householder or occupier, or if there be no such householder or occupier, the owner of such premises or store, and also the medical practitioner attending the case, shall immediately report, in writing, such case to the Municipal Council.

Infectious disease in dairy premises. &c.. to be reported immediately.

7. Whenever it shall appear to the Mayor of the Municipal Council, or be certified to such Mayor by any medical practitioner, that the spread of infectious disease is in his opinion attributable to the milk supplied by any dairyman or milk vendor, the Mayor may require such dairyman or milk vendor wholly to discontinue such supply, distribution, and sale of milk, and to furnish forthwith, upon demand, a full and complete list of the names and addresses of all his customers, and to give such assistance to discover the residence of all or any of them as the Mayor making the inquiry may deem necessary; and every such dairyman or milk vendor shall, for the purposes of such inquiry only, be deemed to be within the Municipality of the Mayor making the inquiry, whether he is actually resident within the Municipality or outside its limits.

Dairyman to supply names, and addresses of customers.

MUNICIPAL DAIRIES AND LAUNDRIES [Cap.566]

Persons suffering from infectious diseases, or having been recently exposed to infection, not to take part in dairy operations.

8. No person following the trade of a dairy farmer, cow-keeper, dairyman, or purveyor of milk, or being the occupier of a milk store or milk shop, shall knowingly allow any person suffering from any infectious disease, or having recently been exposed to infection from a person so suffering, to milk cows or to handle vessels used for containing milk, or in any way to take part or to assist in the conduct of the trade or business of the dairy farmer, cow-keeper, dairyman, or purveyor of milk, or occupier of any milk store or milk shop, as far as regards the production, distribution, or storage of milk, until he shall have shown to the satisfaction of the Mayor of the Municipal Council that all danger of communication of infection to the milk, or of its contamination, has ceased.

Sale or supply of unwholesome milk forbidden.

9. It shall not be lawful for any person selling or supplying milk to any person or persons resident in any Municipality to store, keep, or deposit any milk in any room used for sleeping or dwelling in, or in any other place or way calculated to render such milk unwholesome or injurious to health, or to sell or supply any milk which shall have been produced from any diseased animal, or which shall have been in any place or way exposed to infection from any person suffering from any infectious disease, or which shall have been upon or in any dairy premises or milk store from which the sale of milk has been directed to be discontinued on account of infectious disease as provided in section 7 of this Ordinance.

Penalties, &c.

10. Every person who shall wilfully disobey, or act in violation of, any of the provisions contained in either of the last six preceding sections, or shall resist or wilfully obstruct any person in the lawful exercise of any of the powers conferred under section 3 of this Ordinance, or shall without lawful excuse neglect or disobey any requirement made under the provisions of sections 3 and 7 hereof, or shall neglect or refuse to obey any order or direction of the Mayor of the Municipal Council or the medical officer of health of the Municipality made under the said sections within the time limited in that behalf by such order or direction, shall for every such offence be liable, on conviction, to a penalty not exceeding two hundred rupees.

11. The Minister on the recommendation of the Director of Health Services shall, as soon as practicable after the passing of this Ordinance, declare what are infectious diseases for the purposes of this Chapter, and may hereafter, from time to time, add to, alter, or amend such declaration as may seem necessary or advisable- And the Director of Health Services shall forthwith furnish a copy of each such declaration, and of each such addition, alteration, or amendment to the Municipal Council.

Minister to declare what are infectious diseases.

12. All information for offences against this Chapter may be heard and determined, and all penalties under section 10 may be imposed, by the Municipal Magistrate in a summary way on the complaint of any officer of the Municipal Council;

Summary jurisdiction and appeal.

Provided always that any person aggrieved by any adjudication of such Municipal Magistrate may appeal therefrom to the Court of Appeal. And such appeal shall be governed by the provisions regulating appeals contained in the Code of Criminal Procedure Act;

Provided further that all fines imposed under this Chapter shall be paid to the Municipal Council of the Municipality wherein the offence is committed.

13. It shall be lawful for the Municipal Council to issue, from time to time, regulations, subject to the provisions of this Chapter, for the purpose of carrying the same into effect.

Power to issue regulations.

14. The following expressions in inverted commas, when occurring in this Chapter, or any regulations thereunder, shall, for the purposes thereof, bear the meanings hereinafter respectively assigned to them, unless inconsistent with the context, namely:—

Interpretation.

"dairy premises" means any building, shed, land, or place used for the stalling, grazing, feeding, or milking of cattle for the purpose of producing milk to be sold or supplied, or any building or place used for the purpose of depositing or storing milk when so produced ;

" milk store " means any building, shed, or stall used for the purpose of depositing, storing, or exposing milk for the purpose of selling or disposing thereof;

" dairyman " means the occupier of any dairy premises as hereinbefore defined, or any person engaged in the production of milk for sale or supply for profit to other persons;

" milk vendor " means the occupier of any milk store as hereinbefore defined, or any person engaged in the storage or distribution of milk for sale or supply to other persons ;

" register " means the register of dairymen and milk vendors and of dairy premises and milk stores kept under the authority of this Chapter;

" medical practitioner" means a person holding a qualification which would entitle him to be registered under the following Acts of Parliament of the United Kingdom, to wit:—the Medical Act (21 & 22 Vict. c. 90), and the Medical Act, 1886 (49 & 50 Vict. c. 48), or any other Act of Parliament of the United Kingdom which may be enacted in lieu thereof.

Provisions of this Chapter to extend to dairy premises situated outside Municipal limits.

15. The provisions of this Chapter shall apply to dairymen, milk vendors, dairy farmers, cow-keepers, and purveyors of milk, whether resident within or without the limits of the Municipality, who may sell or supply milk to any person or persons resident within the Municipality, and to dairy premises, milk stores, and milk shops, whether situated within or without the limits of the Municipality, from which milk is sold or supplied to any person or persons resident within the limits of the Municipality, and to the occupier of such premises, stores, or shops.

CHAPTER II

SUPERVISION AND REGULATION OF LAUNDRIES

Duty of Municipal Council to keep register of all laundrymen.

16. It shall be the duty of the Municipal Council—

- (a) to keep a register of the names and addresses of all laundrymen washing for any person resident

within the Municipality, and of all laundry premises used, from time to time, by each of them for the washing, ironing, or deposit of clothes;

- (b) to strike off such register the names and addresses of all persons who shall have ceased, or become disqualified as hereinafter provided, to carry on the business of laundrymen;

- (c) to keep such register open at all reasonable times for inspection by the Director of Health Services or any officer appointed by him in writing, and to furnish any extracts therefrom that he may require ;

- (d) to cause to be inspected all such laundry premises and the appliances and utensils therein used for the washing or ironing of clothes, at the time prescribed in any regulations for the time being in force under this Chapter, and to enter the date and result of every such inspection in the register;

- (e) to furnish in the month of January of each year to the Director of Health Services a report of the Municipal Council's proceedings under this Chapter in respect of the supervision and regulation of laundries during the preceding twelve months, in such form as may be prescribed by any regulation for the time being in force under this Chapter.

17. (1) The Mayor of the Municipal Council shall have the following powers in addition to any other powers in this Chapter conferred, namely:—

Powers of Mayor of the Municipal Council to enter laundry premises.

- (a) to enter or authorize the entry at all reasonable times into or upon any laundry premises for the purpose of making any inspection by this Chapter authorized ;

* See also sections 29 and 74 of the Medical Ordinance.

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(b) to require any laundryman, by notice in writing, to cleanse and maintain in a sanitary condition his laundry premises and any utensils therein used as aforesaid ;

(c) to require any laundryman, by notice in writing, to desist from using any well or other source of water supply in or on his laundry premises, or used in connexion therewith, which is polluted or unwholesome, and to wholly discontinue the use of the water thereof for any purpose whatsoever, for such period as the Mayor shall direct, or to fill up the said well or source of water supply and keep the same so filled up;

(d) to refuse or cancel the registration of any laundryman in respect of any laundry premises which are in an insanitary condition, or in which the provisions for ventilation, drainage, lavatory, and privy accommodation or water supply are not such as are necessary for health or for the cleanliness of the appliances and utensils used therein, or for the protection of any clothes therein against infection or contamination.

(2) For the purposes of this section the term " the Mayor of the Municipal Council " shall include the medical officer of health of the Municipality.

Laundry men and others to apply for registration.

18. Every laundryman engaged in the washing of clothes for any person or persons in any Municipality at the time of this Ordinance coming into force shall within three months of such time, and every laundryman thereafter commencing to engage in such washing shall, before so commencing, apply to the Municipal Council to cause to be entered on the register for that Municipality his name and place of residence and the locality of every laundry premises used or to be used by him, and thenceforward, from time to time, any change of such residence, or discontinuance by him to use any former, or commencement by him to use any other, laundry premises.

19. It shall not be lawful for any person to wash clothes for any person or persons in any Municipality if his name and place of residence and every laundry premises used by him for the purpose of the washing, ironing, or deposit of any such clothes are not entered upon the register for that Municipality.

Unregistered persons forbidden to wash clothes.

20. On the appearance of any case of infectious disease in any person or persons in any laundry premises or laundry store, the householder or occupier, or if there be no such householder or occupier, the owner of such premises, and also the medical practitioner attending the case, shall immediately report in writing such case to the Municipal Council.

infectious disease in laundry premises, &c., to be reported immediately.

21. Whenever it shall appear to the Mayor of the Municipal Council, or be certified to such Mayor by any medical practitioner, that the spread of infectious disease is in his opinion attributable to the clothes washed and distributed by any laundryman, the Mayor may require such laundryman wholly to discontinue his business or trade for such time as the Mayor shall direct, and to furnish forthwith, upon demand, a full and complete list of the names and addresses of all his customers, and to give such assistance to discover the residence of all or any of them as the Mayor making the inquiry may deem necessary.

Laundryman to supply names and addresses of customers.

22. No person following the business or trade of a laundryman, or being the occupier of laundry premises, shall knowingly allow any person suffering from any infectious disease, or having recently been exposed to infection from a person so suffering, to wash or handle clothes or the utensils used for washing the same, or in any way to take part or to assist in the conduct of the trade or business of the laundryman or occupier of any laundry premises as far as regards the washing, ironing, distribution, or storage of clothes, until he shall have shown to the satisfaction of the Mayor of the Municipal Council that all danger of communication of infection to, or of contamination of, the clothes has ceased.

Persons suffering from infectious disease or having been recently exposed to infection not to take part in laundry operations.

Laundry operations prohibited in places exposed to infection.

23. It shall not be lawful for any laundryman to wash, iron, store, keep, or deposit any clothes in any room in which there shall be clothes which shall have been in any place or way exposed to infection from any person suffering from any infectious disease, or which shall have been upon or in any laundry premises in which the distribution of clothes has been directed to be discontinued, on account of infectious disease, as provided in section 21 of this Ordinance.

Municipal Magistrate may appeal therefrom to the Court of Appeal. And such appeal shall be governed by the provisions regulating appeals contained in the Code of Criminal Procedure Act;

Provided further that all fines imposed under this Chapter shall be paid to the Municipal Council of the Municipality wherein the offence is committed.

Penalties, &c.

24. Every person who shall wilfully disobey or act in violation of any of the provisions contained in either of the last six preceding sections, or shall resist or wilfully obstruct any person in the lawful exercise of any of the powers conferred under section 17 of this Ordinance, or shall without lawful excuse neglect or disobey any requirement made under the provisions of sections 17 and 21 hereof, or shall neglect or refuse to obey any order or direction of the Mayor of the Municipal Council, or the medical officer of health of the Municipality made under the said section within the time limited in that behalf by such order or direction, or shall lend, hire, or use any article of clothing which he may receive for the purpose of being washed or ironed, shall be guilty of an offence, and be liable on conviction to a penalty not exceeding two hundred rupees.

27. It shall be lawful for the Municipal Council to issue, from time to time, regulations, subject to the provisions of this Chapter, for the purposes of carrying the same into effect.

Power to issue regulations.

28. The following expressions in inverted commas, when occurring in this Chapter, or any regulations thereunder, shall, for the purposes thereof, bear the meanings hereinafter respectively assigned to them, unless inconsistent with the context, namely:—

Interpretation.

" laundry premises " means any building, shed, land, place, well, or other source from which water is obtained, used for the purpose of carrying on the business or trade of washing or drying of clothes for any person or persons for hire, or any building, shed, or place used by any laundryman for the purpose of ironing, depositing, or storing clothes;

" laundryman " means the occupier of any laundry premises as hereinbefore defined, or any person engaged in the washing, drying, ironing depositing, or storing of clothes for other persons for hire ;

" register" means the register of laundrymen, of laundry premises and laundry stores kept under the authority of this Chapter;

Minister to declare what are infectious diseases.

25. The Minister, on the recommendation of the Director of Health Services shall, as soon as practicable after the passing of this Ordinance, declare what are infectious diseases for the purposes of this Chapter, and may thereafter, from time to time. add to, alter, or amend such declaration as may seem necessary or advisable. And the Director of Health Services shall forthwith furnish a copy of each such declaration and of each such addition, alteration, or amendment to the Municipal Council.

Summary Jurisdiction and appeals.

26. All offences against this Chapter may be heard and determined, and all penalties under section 24 may be imposed, by the Municipal Magistrate in a summary way on the complaint of any officer of the Municipal Council:

Provided always that any person aggrieved by any adjudication of such

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* " medical practitioner" means a person holding a qualification which would entitle him to be registered under the following Acts of Parliament of the United Kingdom, to wit: - the Medical Act (21 & 22 Vict. c. 90), and the Medical Act, 1886 (49 & 50 Vict. c. 48), or any other Act of Parliament of the United Kingdom which may be enacted in lieu thereof.

29. The provisions of this Chapter shall apply to laundrymen, whether resident within or without the limits of the Municipality, who may wash for any persons resident within the Municipality, and to laundry premises, whether situated within or without the limits of the Municipality, used for the purpose of washing, drying, ironing, depositing, or storing clothes for any person or persons resident within the Municipality.

Provisions of this Chapter to extend to laundry premises situated outside Municipal limits.

* See also sections 29 and 74 of the Medical Ordinance.

CHAPTER 397

MAHANUWARA ESALA PERAHERA TRUST

Act
No. 34 of 1980.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A TRUST CALLED THE MAHANUWARA ESALA PERAHERA TRUST, FOR THE PURPOSE OF ASSISTING FINANCIALLY AND IN OTHER WAYS THE SRI DALADA MALIGAWA AND THE FOUR DEVALES OF KANDY TO CONDUCT THE ESALA PERAHERA; AND TO PROVIDE FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th September, 1980.]

Short title.

1. This Act may be cited as the Mahanuwara Esala Perahera Trust Act.

Provided, however, that the President may at any time remove such member without assigning any reason therefor, and appoint another member in his place.

Establishment of the Mahanuwara Esala Perahera Trust.

2. (1) There shall be established a Trust which shall be called "the Mahanuwara Esala Perahera Trust " (hereinafter referred to as "the Trust") for the purposes of achieving the objects specified in section 6.

(3) The Chairman of the Board shall preside at the meetings of the Board, or in his absence the Government Agent of the administrative district of Kandy shall preside at such meetings.

(2) The Trust shall by the name assigned to it by subsection (1) be a body corporate and have perpetual succession and a common seal and may sue and be sued in such name.

(4) The Chairman or other member presiding at a meeting of the Board shall, in addition to his own vote, have a casting vote.

The Board of Managing Trustees and meetings.

3. (1) The Trust shall be administered by a Board of Managing Trustees (hereinafter referred to as the " Board"), consisting of the following members :—

(5) The quorum for a meeting of the Board shall be two members.

(a) the Diyawadana Nilame of the Sri Dalada Maligawa who shall be the Chairman of the Board ;

(6) The Board may act notwithstanding any vacancy among its members.

(b) the Government Agent of the administrative district of Kandy; and

(7) Notice of every meeting of the Board shall be sent by registered post to the Custodian Trustee referred to in section 4 who may attend such meeting but shall not be entitled to vote at such meeting.

(c) the Basnayake Nilame of one of the four Devales of Kandy appointed by the President.

4. The Public Trustee appointed under section 2 of the Public Trustee Ordinance shall be the Custodian Trustee of the Trust.

Custodian Trustee

(2) The member appointed under paragraph (c) of subsection (1) shall hold office as a member of the Board only so long as he holds the office by virtue of which he was appointed :

5. (1) The seal of the Trust shall be in the custody of the Chairman of the Board and shall not be affixed to any instrument or document except with the sanction of the Board and in the presence of two members of the Board who shall sign such instrument or document in token of their presence.

The seal of the Trust.

(2) There shall be maintained a register in which particulars of any instrument or document on which the seal was affixed shall be entered.

The objects of the Trust.

6. The objects of the Trust shall be—

- (a) to provide financial and other assistance to the Sri Dalada Maligawa and the four Devales of Kandy to conduct the annual Mahanuwara Esala Perahera;
- (b) to encourage and promote the National Arts and Dances which enhance the artistic and cultural value of the annual Mahanuwara Esala Perahera;
- (c) to provide financial assistance to artists and craftsmen whose services would tend to improve the cultural and artistic value of the annual Mahanuwara Esala Perahera;
- (d) to engage in the production of articles to be utilized in the annual Mahanuwara Esala Perahera;
- (e) to hold competitions and to award prizes, certificates and other forms of recognition to artists and dancers who take part in the annual Mahanuwara Esala Perahera.

Powers, duties and functions of the Trust.

7. (1) The Board shall, in the name of the Trust, have the power to do all such things as are necessary for, or conducive or incidental to, the carrying out of the objects of the Trust.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Board may exercise and discharge the following powers and functions :—

- (a) to direct the Custodian Trustee to sell, mortgage, lease, grant, convey, devise, assign, exchange or otherwise dispose of any movable or immovable property belonging to the Trust:

Provided, however, where immovable property valued at over

one hundred thousand rupees is to be sold, mortgaged, leased, or otherwise dealt with, the Board shall make an application to the District Court of Kandy together with two valuation reports from two independent valuers to obtain the sanction of such Court for such transaction. The Custodian Trustee shall be made a respondent to such application;

- (b) to give grants, endowments or scholarships for the furtherance of the objects of the Trust;
- (c) to enter into or perform, either directly or through officers and servants or agents authorized in writing in that behalf by the Board, all such contracts and agreements as may be necessary for the exercise, discharge and performance of its powers, functions and duties and in carrying out of the objects of the Trust;
- (d) subject to the provisions of this Act, to appoint, employ and remunerate officers and servants of the Trust and to make rules regarding the appointment, promotion, remuneration and disciplinary control of its employees and the grant of leave and other benefits to them;

- (e) to direct the Custodian Trustee to invest funds belonging to the Trust in any such investments as are authorized by the Trusts Ordinance or any other law relating to the investment of trust funds and to recall, reinvest and vary such investments;

- (f) to make rules in relation to all matters connected with the administration of the Trust.

8. (1) There shall be an Advisory Committee consisting of the following:— Advisory Committee.

- (a) the Diyawadana Nilame of the Sri Dalada Maligawa;

- (b) the four Basnayake Nilames of the four Devales of Kandy;
- (c) the Government Agent of the administrative district of Kandy; and
- (d) three members to be nominated by the President (hereinafter referred to as a "nominated member").

(2) The three nominated members shall hold office for a period of five years unless they earlier vacate office by death or resignation or are removed from office by the President.

(3) The President may at any time remove a nominated member without assigning any reason therefor and nominate another member in his place. A member so nominated shall hold office for the unexpired period of the term of office of the member whom he succeeds.

(4) The Diyawadana Nilame of the Sri Dalada Maligawa shall be the Chairman of the Advisory Committee and shall preside at the meetings of such Committee and in his absence any member elected by a majority of the members present at such meeting, shall preside at that meeting.

(5) The quorum for a meeting of the Advisory Committee shall be five members.

9. (1) The Board may, in the administration of the Trust, seek the assistance of the Advisory Committee referred to in section 8, and shall, in the exercise of its powers and the discharge of its functions under this Act, consult such Advisory Committee on such matters as the President may in writing direct.

(2) Where the Board is required to consult such Advisory Committee on any matter, such matter shall be decided at a meeting of such Advisory Committee by a majority of those present and voting:

Provided that when the Board is unable to agree with or abide by such decision it shall, within one month of such decision, make a report on such matter to the President whose decision thereon shall be final.

10. There shall be established a Fund of the Trust called the Mahanuwara Esala Perahera Trust Fund (hereinafter referred to as the "Fund").

Establishment of Fund of the Trust

11. (1) The Custodian Trustee shall, on behalf of the Trust, hold all the assets of the Fund both movable and immovable in his name as Custodian Trustee.

Powers, duties, and functions of the Custodian Trustee.

(2) All investments and recalling and reinvesting of investments shall be done by the Custodian Trustee on the directions of the Board.

(3) All sums payable to the Fund under paragraph (d) of section 12 shall be paid to the Custodian Trustee to be deposited in the Fund.

(4) The Custodian Trustee may allow the dividends and other income derived from the Fund to be paid to the Board or to such persons or into such bank to the credit of such persons as the Board may in writing direct and in such case he shall be exonerated from seeing to the application thereof, and shall not be answerable for any loss or misapplication thereof.

(5) The Custodian Trustee or any person authorized in writing in that behalf by him shall receive all grants, gifts and donations made to the Trust and issue receipts therefor.

(6) Subject to and without prejudice to the rights of any other persons, the Custodian Trustee shall have the custody of all securities and documents of title relating to the Trust property, but the Board shall have free access thereto and be entitled to take copies thereof or extracts therefrom.

(7) The Custodian Trustee shall concur in and perform all acts necessary to enable the Board to exercise its powers of management or any other power or discretion vested in them unless the matter in which he is required to concur in is a breach of trust, or involves a personal liability upon him in respect of calls or otherwise, but the Custodian Trustee shall not be liable for any act or default on the part of the Board.

Board to consult Advisory Committee on certain matters.

Payments into the Fund.

- 12.** There shall be paid into the Fund—
- (a) the initial payment made by the Government;
 - (b) such sums as may from time to time be voted by Parliament;
 - (c) any gifts or donations of money and the proceeds of sale of any gifts or donations in kind; and
 - (d) such income from investments or other receipts due to the Trust as may be determined by the Board.

information before the lapse of the year succeeding the year to which such report of the finances relate.

17. The financial year of the Trust shall be the calendar year.

Financial year of the Trust

18. The moneys lying to the credit of the Trust, other than the sums paid into the Fund under section 12, shall be utilized for the following purposes :—

Expenses of the Trust.

- (a) all such payments necessary for the purpose of carrying out the objects of the Trust;
- (b) expenses necessary for the administration, establishment and maintenance of the Trust;
- (c) the payment of salaries to officers, servants and other employees; and
- (d) all such other payments as are approved by the Board as being necessary for the purpose of carrying out the objects of the Trust.

Investment of moneys in Fund.

13. Moneys lying to the credit of the Fund shall be invested in accordance with the provisions of the Trusts Ordinance or any other law relating to the investment of Trust moneys and shall not be utilized for any other purpose whatsoever.

Trust deemed to be a charitable trust.

14. The Trust shall be deemed to be a charitable trust within the meaning of the Inland Revenue Act (No. 28 of 1979).

Exemption of Trust from certain duties and fees.

15. (1) The Minister in charge of the subject of Finance may exempt the Trust from the payment of any customs duties on any goods imported by the Trust if the import of such goods is considered to be conducive for the advancement of the aims and objects of the Trust.

(2) The Trust shall not be liable to pay any fees payable to the Public Trustee under the Public Trustee Rules made under section 52 (1) of the Public Trustee Ordinance.

19. (1) No person shall except under the authority of, and other than in accordance with the conditions set out in a licence issued by the Custodian Trustee or a person authorized by him in writing (hereinafter referred to as the "authorized officer"), provide for a fee or levy any facility for the purpose of viewing the annual Mahanuwara Esala Perahera. Such licence shall be issued upon application made in that behalf in the form provided for the purpose.

issue of licences-

Accounts and audit.

16. (1) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Trust.

(2) The Auditor-General shall audit the accounts of the Trust every year in accordance with Article 154 of the Constitution.

(3) The Board shall annually prepare a report of the work of the Trust and forward such report to the Auditor-General who shall, together with his report, table such reports in Parliament and such reports shall be published in the Gazette for general

(2) The Custodian Trustee or an authorized officer may call for such further particulars as may be necessary to determine whether a licence under subsection (1) should be issued or not to the person making an application under that subsection.

(3) The Custodian Trustee or an authorized officer may refuse to issue a licence if he is satisfied that—

- (a) the proposed fee or levy is excessive or unreasonable in the circumstances;

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(b) the facilities to be provided are inadequate; or

(c) the precautions that will be taken to ensure the safety of the public are inadequate.

(4) The following conditions may be set out in the licence issued under subsection (1):—

(a) the maximum fee or levy to be charged;

(b) the facilities that are to be provided;

(c) the precautions that are to be taken to ensure the safety of the public.

Offences and Penalties.

20. From and after the commencement of this Act, any person who—

(a) without the prior written approval of the Custodian Trustee, receives or collects any contribution in money or kind for the purpose of conducting the annual Mahanuwara Esala Perahera or for any matter connected therewith;

(b) except under the authority of a licence issued by the Custodian Trustee or an authorized officer, provides for a fee or levy, any facility for the purpose of viewing the annual Mahanuwara Esala Perahera;

(c) acts in contravention of the conditions set out in the licence referred to in subsection (4) of section 19,

shall be guilty of an offence, and shall, on conviction by 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.

Protection of members of the Board and officers, &c., of the Trust for action under this Act.

21. (1) No suit or prosecution shall be instituted against any member of the Board or against any officer, servant or agent of the Trust appointed for the purposes of this Act for any act which is in good faith done

or purported to be done by such person under this Act or on the direction of the Board.

(2) Any expense incurred by the Trust in any suit or prosecution brought by or against the Trust before any court shall be paid out of the funds of the Trust and any costs paid to or recovered by the Trust in any such suit or prosecution shall be credited to the funds of the Trust.

(3) Any expense incurred by any such person as is referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Board shall, if the court holds that such act was done in good faith, be paid out of the funds of the Trust unless such expense is recovered by him in such suit or prosecution.

22. No writ against person or property shall be issued against any member of the Board or any officer or servant of the Trust in any action brought against the Trust.

No writ to issue against person or property of member of the Trust.

23. All officers and servants of the Trust shall be deemed to be public servants within the meaning and for the purposes of the Penal Code.

Officers and servants of the Trust deemed to be public servants under the Penal Code.

24. The Trust shall be deemed to be a scheduled institution within the meaning of the "Bribery Act and the provisions of" Act shall accordingly apply,

Trust deemed to be scheduled institution within the meaning of the Bribery Act.

25. In this Act, unless the context otherwise requires, "the four Devales of Kandy" means—

interpretation.

(a) the Kandy Natha Devale;

(b) the Kandy Maha Vishnu Devale;

(c) the Kandy Kataragama Devale; and

(d) the Kandy Pattini Devale.

CHAPTER 501

MUSLIM HOSPITAL ASSOCIATION

Ordinance
No. 38 of 1946.

AN ORDINANCE TO INCORPORATE THE MUSLIM HOSPITAL ASSOCIATION.

[28th August, 1946.]

Short title. **1.** This Ordinance may be cited as the Muslim Hospital Association Ordinance.

Incorporation of the Muslim Hospital Association. **2.** With effect from the date on which this Ordinance comes into operation, the persons who for the time being are the members of the Muslim Hospital Association are hereby constituted and established a body corporate with perpetual succession under the name of the Muslim Hospital Association (hereinafter referred to as the "association") and by such name shall and may sue and be sued in all courts in Sri Lanka and may have and use a common seal and alter the same at their pleasure.

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

- (1) to maintain the Muslim Hospital in Colombo,
- (2) to establish, maintain and support maternity homes in Sri Lanka wherever they are needed ; and
- (3) to do everything that may be required to promote the health of Muslims in Sri Lanka.

Board of directors. **4.** (1) The affairs of the association shall, subject to the rules for the time being in force under this Ordinance, be administered by a board of directors (hereinafter referred to as "the board") consisting of not less than twenty-four and not more than forty members.

(2) The first board of directors under this Ordinance shall consist of the members of the association whose names are enumerated in Schedule I*.

(3) The tenure of office of, and the election of successors to, the board or any individual director shall be in accordance with the rules for the time being in force under this Ordinance.

5. The association shall be able and capable in law— Power to hold property.

- (a) to acquire at any time hereafter any property, movable or immovable, whether by purchase, gift, devise or legacy;
- (b) to invest the funds of the association;
- (c) to erect any buildings on any land vested in or acquired or held by the association; and
- (d) to sell, grant, convey, assign or otherwise dispose of any of its properties.

6. (1) The rules set out in Schedule II* shall for all purposes be deemed to be the rules of the association in force at the date on which the Ordinance comes into operation. Rules.

(2) The association shall have power at all times hereafter to make new rules whether in addition to or in substitution for the rules set out in Schedule II*, and to amend or add to or rescind any of the rules set out in Schedule II* or any new rule so made; and the rules in force under this Ordinance at any time shall be the rules as so added to, replaced or amended up to that time.

* Schedules omitted.—Private enactment.

Debts and liabilities.

7. All debts, liabilities and obligations, which at the date on which this Ordinance comes into operation are due to be paid, fulfilled or performed by the Muslim Hospital Association, shall be paid, fulfilled or performed by, and all debts, subscriptions and contributions which at that date are due or payable to that association shall be paid to, the association incorporated by this Ordinance.

to any matter or question affecting or relating to the principles or policy of the association, shall be referred to the board whose decision thereon shall be final.

Decision of disputes, &c., as to principles or policy.

8. Except so far as is provided in this Ordinance or in any rules for the time being in force thereunder any dispute or doubt as

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 person, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

Saving of the rights of the Republic and other rights.

CHAPTER 502

MOORS' ISLAMIC CULTURAL HOME

Ordinance AN ORDINANCE TO INCORPORATE THE MOORS' ISLAMIC CULTURAL HOME.
 No. 46 of 1946.

[19th October, 1946]

Short title. **1.** This Ordinance may be cited as the Moors' Islamic Cultural Home Ordinance.

Incorporation of the Moors' Islamic Cultural Home. **2.** (1) On and after the date of the commencement of this Ordinance, the persons for the time being constituting the board of trustees of the Moors' Islamic Cultural Home, and the other members for the time being of the aforesaid Home shall be and are hereby constituted a body politic and corporate with the name of "the Moors' Islamic Cultural Home**.

(2) The Moors* Islamic Cultural Home shall, in the said name and for the purposes herein mentioned, have perpetual succession, and may by the said name sue and be sued, plead and be impleaded, answer and be answered in all courts, and shall have a common seal with power to break, alter and renew the same at its discretion.

Objects of the corporation. **3.** The objects for which the corporation is constituted are hereby declared to be—

- (a) the study and promotion of Islamic culture and religion;
- (b) the research into, and study of, the history, customs, traditions and habits of the Ceylon Moors ;
- (c) the promotion of a spirit of fellowship among members of the Moors' Islamic Cultural Home, and the inculcation in them of the principles of service to the community and the country;
- (d) the promotion of the cultural, moral, social and economic welfare of Sri Lanka;

(e) the provision of facilities for recreation;

(f) the establishment and maintenance of a hostel for students, a guest house for visitors, and a restaurant for the convenience of its members and other persons approved by the board of trustees; and

(g) the construction and maintenance of a suite of rooms which are to be let for weddings and other social functions.

4. (1) The affairs of the corporation shall, subject to any rules made or deemed to be made under this Ordinance, be administered by a board of trustees, consisting of the president, not less than five vice-presidents, three honorary joint secretaries, two honorary joint treasurers, and not less than thirty-eight other members. The persons constituting such board shall be elected in accordance with rule 3 specified in the Schedule* to this Ordinance or any rule amending the said rule 3.

(2) The first members of the board of trustees shall be—

President	A. R. A. Razik, M.S.C., M.M.C..J.P..U.M.	Colombo
Vict-Pretidents ..	W. M. Hauim, J.P. Al Haj. A. V. Macan Markar A. R. M. Mukthar M. H. M. Munas Al Alim M. H. M. Shanuu- deeo O. H. M. Sulaman Al. Haj. M. H. M. Sula-unan L. M. M. Uvais M. I. Abdul Rasool	Colombo ,, ,, ,, ,, ,, ,, Trincomake

* Schedule omitted.—Private enactment.

	A. I. L. Marikar .. Colombo	Rajakaruna Vaidiyalilcke	
Hon. Jt. Secretaries'	A. H. Macan Markar, B.A. (Cantab.)	Muhandiram Sheik	
	A. L. M. Lafir	Mohamed Udayar .. Aranayake	
	"M. L. M. Ghouse .. Colombo	Rasheed Bin Hassen, M.M.C. .. Colombo	
Hon. Jt. Treasurers	A. H. Macan Markar, B.A. (Cantab.)	Razeeo Abdul Cader .. »	
		C. M. M. Sahid	
		A. R. M. Saleero	
Other members of	A. C. Abdeen .. Colombo	C. M. M. Salih	
the Board of	B. L. Abdul Bhari .. Bentota	0- L. M. M. Salih	
Trustees	A. C. M. Abdul Cader, Proctor, S.C. .. Colombo	M. Samccr .. -	
	M. C. M. Abdul Cader .. Galle	M. M. Shafi	
	S. M. H. Abdul Hafeel ..	M. M. Sulaiman .. "	
	M. A. M. Abdul Hassen .. Warakapola	A. Mubarak Thaha .. "	
	A. R. A. M. Aboobucker, Kathi, J.P. .. Trincomalce	A. R. M. Thassim, Kathi, J.P. .. Balapitiya	
	M. L. M. Ahmed .. Colombo	P. M- Yooaof .. Negombo	
	M. S. M. Anver .. "	M. H. M. Yusuf .. Colombo	
	I. M. Asanoon .. Negombo	A. R. M. Zarook .. "	
	Al Haj. H. A. Cabcer .. Colombo		
	M. A. Careem, M.A. (Cantab.)		
	M. Hussain Careem, Proctor .. GaUe		
	S. A. I. Dheen, Proctor, S.C., Kathi, J.P. .. Negombo		
	M. M. M, Ghouse .. Colombo		
	Dr. M.S. Ghouzul Ameer .. "		
	S, Halimdcn .. Kandy		
	M. I. M. Hamdoon .. Negombo		
	A. M. Hamid, M. R. A. S. (C.8.) .. Colombo		
	A.L.M. Haniifa, Kathi, J.P. Anuradhapura		
	M. Sulaiman Hassim .. Colombo		
	Al Ha) M. M- Ibrahim .. Batticaloa		
	M. Thowfeek Idroos .. Colombo		
	S. M. Isroail .. "		
	H. S. Ismail, Proctor .. Puttalam		
	K- S. Jallabdeen .. "		
	Al Haj- Y. A. Jamaldcn .. "		
	M. F. M. Jaward .. "		
	M. H. M. Kamil .. "		
	Y. M. Khalid .. "		
	C. M. M. Maharoof, Proctor, S.C. .. "		
	S. D. M. Mansoor .. "		
	A. C. H. Mohamed		
	I. S. Mohamed, Headman Akuraa		
	K. M. N, S. Mohamed, Headman .. -		
	S. L. Mohamed .. Colombo		
	A. F. Mohamed .. Galle		
	M. B. Mohamed .. Colombo		
	M. N. S. Mohamed .. Trincomalee		
	A. C. Mohammedo, J.P., U.M., Proctor, S.C. .. Colombo		
	H. M. Mohideen .. Katugastota		
	S. E. C. Mohideen .. Minuwangoda		
	Dr. M. Mohideen Hassan .. Colombo		
	M. Y. M. Mushood		
	M. S. Naina Marikar .. "		
	S. M. A. Raheeman, J.P., U M., Proctor, S.C. .. Negombo		

5. (1) It shall be lawful for the board Rules.
of trustees at any of its meetings, by a
majority which is not less than two-thirds of
the number of members present and voting
at such meeting, to make rules in respect of
all or any of the following matters:—

- (a) the admission, withdrawal, suspension or expulsion of members of the Moors' Islamic Cultural Home;
- (b) the election, appointment, and removal of the office-bearers of the corporation or of the members of the board of trustees, and their tenure of office;
- (c) the duties of the board of trustees, and of the various subcommittees, office-bearers, agents and servants of the corporation;
- (d) the procedure to be followed in the transaction of business ; and
- (e) generally for carrying out and giving effect to the principles of this Ordinance.

(2) The rules in the Schedule* to this Ordinance shall for all purposes be deemed to be the rules of the corporation in force at the commencement of this Ordinance, and to have been made under this Ordinance, and may be altered, added to, amended, or rescinded by rules, to be made under this Ordinance.

* Schedule omitted.— Private enactment.

MOORS' ISLAMIC CULTURAL HOME

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(3) All members of the corporation shall be subject to any rules made or deemed to be made under this Ordinance.

the president or a vice-president, expressly nominated by the board of trustees and such persons 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.

Power to hold property.

6. The corporation shall at all times hereafter be able and capable in law to take and hold any property, movable or immovable, whether by purchase, grant, gift, testamentary disposition, or otherwise, and all such property shall be held by the corporation for the purposes of this Ordinance.

9. Subject to the provisions of rule 3 (j) specified in the Schedule* to this Ordinance, the corporation shall have the power to sell, mortgage, lease, exchange or otherwise dispose of its property.

Debts, &c., due by and payable to the Moors' Islamic Cultural Home.

7. All debts and liabilities of the said Moors' Islamic Cultural Home which were in existence before the coming into operation of this Ordinance, shall be paid by the corporation, and all debts due to and subscriptions and contributions payable to the said Moors' Islamic Cultural Home shall be paid to the corporation for the purposes of this Ordinance.

10. Except so far as provided in this Ordinance or in any rules made or deemed to be made thereunder, any dispute or doubt as to any matter or question affecting or relating to the principles or policy of the corporation shall be referred to the board of trustees whose decision thereon shall be final.

Seal.

8. The seal of the corporation shall not be affixed to any instrument whatsoever, except in the presence of three members of the board of trustees, of whom one shall be

11. Nothing in this Ordinance contained shall prejudice or affect the rights of the Republic, or any body politic or corporate, or any other persons, except such as are mentioned in this Ordinance and those claiming by, from, or under them.

* Schedule omitted.—Private enactment.

CHAPTER 72

MUSLIM INTESTATE SUCCESSION

Ordinance No. 10 of 1931. AN ORDINANCE TO DEFINE THE LAW RELATING TO MUSLIM INTESTATE SUCCESSION AND DONATIONS.

[17th June, 1931]

Short title. 1. This Ordinance may be cited as the Muslim Intestate Succession Ordinance.

Muslims domiciled in Sri Lanka or owning immovable property in Sri Lanka, shall be the Muslim law governing the sect to which the donor belongs:

TESTATE AND INTESTATE SUCCESSION AND DONATIONS

Declaration of law relating to intestacy. 2. It is hereby declared that the law applicable to the intestacy of any deceased Muslim who at the time of his death was domiciled in Sri Lanka or was the owner of any immovable property in Sri Lanka shall be the Muslim law governing the sect to which such deceased Muslim belonged.

Provided that no deed of donaton shall be deemed to be irrevocable unless it is so stated in the deed, and the delivery of the deed to the donee shall be accepted as evidence of delivery of possession of the movable or the immovable property donated by the deed.

Declaration of law relating to donations. 3. For the purposes of avoiding and removing all doubts it is hereby declared that the law applicable to donations not involving usufructs and trusts, and made by

4. It is hereby further declared that the principles of law prevailing in the Maritime provinces shall apply to all donations, other than those to which the Muslim law is made applicable by section 3.

Declaration of law relating to donations not covered by section 3-

CHAPTER 90

MONEY LENDING

Ordinance
No. 2 of 1918,
Acts
Nos. 9 of 1954,
11 of 1963.

AN ORDINANCE TO PROVIDE FOR THE BETTER REGULATION OF MONEY-LENDING TRANSACTIONS, AND THE PROHIBITION OF THE CARRYING ON OF THE BUSINESS OF MONEY LENDING BY CERTAIN PERSONS.

[1st August, 1918.]

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

Prohibition of the carrying on of the business of money lending by certain persons. [§48, 11 of 1963.] **1A.** (1) On or after the first day of January, 1964, no person shall carry on the business of money lending if such person—

- (a) is an individual who is not a citizen of Sri Lanka; or
- (b) is a foreign company; or
- (c) is a foreign firm:

Provided, however, that the preceding provisions of this subsection shall not apply to any foreign firm or foreign company approved for the purposes of this subsection by the Minister in charge of the subject of Finance by Order published in the Gazette.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months, or to both such fine and imprisonment.

(3) In any prosecution of any person for an offence under this section, the burden of proving that such person is a citizen of Sri Lanka, or is not a foreign company or foreign firm, shall lie on such person.

(4) In this section—

- (a) "citizen of Sri Lanka" means any individual who is a citizen of Sri Lanka under any law for the time being in force relating to such citizenship;
- (b) "foreign company" means a company to which Part XI of the Companies Ordinance* applies, other than any commercial bank within the meaning of the Monetary Law Act or any life insurance company; and
- (c) "foreign firm" means a firm—
 - (i) consisting of two partners one of whom is not a citizen of Sri Lanka, or both of whom are not such citizens; or
 - (ii) consisting of more than two partners at least one of whom is not a citizen of Sri Lanka.

1B. No suit or other proceedings, shall be instituted or maintained in any court in respect of any money lent if such money was lent on or after the first day of January, 1964, by any person carrying on the business of money lending in contravention of the provisions of subsection (1) of section 1A.

Prohibition of suit or other proceedings in respect of money lent in certain circumstances. (§48, 11 of 1963)

2. (1) Where proceedings are taken in any court for the recovery of any money lent after the commencement of this

Re-opening of "money-lending transactions."

* Repealed and replaced by the Companies Act, No. 17 of 1982.

MONEY LENDING

Ordinance, or the enforcement of any agreement or security made or taken after the commencement of this Ordinance in respect of money lent either before or after the commencement of this Ordinance, and there is evidence which satisfies the court—

- (a) that the return to be received by the creditor over and above what was actually lent (whether the same is charged or sought to be recovered specifically by way of interest, or in respect of expenses, inquiries, fines, bonuses, premia, renewals, charges, or otherwise), having regard to any sums already paid on account, is excessive, and that the transaction was harsh and unconscionable, or, as between the parties thereto, substantially unfair; or
- (b) that the transaction was induced by undue influence, or is otherwise such that according to any recognized principle of law or equity the court would give relief; or
- (c) that the lender took as security for the loan a promissory note or other obligation in which the amount stated as due was to the knowledge of the lender fictitious, or the amount due was left blank,

the court may re-open the transaction and take an account between the lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of such principal, interest, and charges as the court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid or allowed in account by the debtor, may order the creditor to refund it; and may set aside, either wholly or in part, or revise, or alter any security given or agreement made in respect of money lent, and if the lender has parted with the security may order him to indemnify the borrower or other person sued.

(2) Any court in which proceedings might be taken for the recovery of money lent shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under the last preceding subsection, and the court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Ordinance by the borrower or surety or other person liable, notwithstanding that the time for repayment of the loan or any instalment thereof may not have arrived.

(3) In any insolvency proceedings on any application relating to the admission or amount of a proof in respect of any money lent, the court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

(4) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money lending.

(5) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any court.

3. In the exercise of its powers under the Prescription. last preceding section the court shall have regard to the lapse of time, the conduct of the party praying for relief, and any other equitable considerations that the Justice of the case may require to be taken into account, but the provisions of the Prescription Ordinance shall not apply to any claim for relief under the said section:

Provided that in any case in which any amount claimed at any time to be due has been settled in account, no repayment or re-adjustment of the account shall be ordered in respect of any sum paid or allowed in account at a date exceeding six years before (negate of the application to the court for relief. .

4. (!) In considering whether in any case the return to be received by the creditor is excessive, the court shall have regard (amongst other things) to the reasonableness of the rate of interest charged.

Meaning of return being excessive.

Rates above which interest presumed to be unreasonable.

(2) Any rate of interest charged above the rates following, that is to say;—

- (a) in the case of loans of an amount up to and including one - hundred rupees, twenty *per centum* per annum;
- (b) in the case of loans over one hundred rupees and up to and including two thousand five hundred rupees, eighteen *per centum* per annum;
- (c) in the case of loans over two thousand five hundred rupees, fifteen *per centum* per annum,

shall be deemed to be unreasonable, unless the creditor, or any person claiming through the creditor, shall satisfy the court that in all the circumstances of the case the rate charged was in fact reasonable :

Provided that nothing in this section shall be deemed to preclude the court, in any case in which the above limits are not exceeded, from directing a reduction of the rate of interest charged, if the party seeking relief shall satisfy the court that in all the circumstances of the case such reduction ought to be made.

(3) In computing the rate of interest charged, the court shall take into account all payments, other than principal made by the debtor to the creditor, or charged to the debtor by the creditor in account, in respect of the loan, whether purporting to be by way of interest or otherwise (not being payments from which the creditor derives no benefit), and shall for the purposes of the computation, as nearly as practicable, convert all such payments into a rate *per centum* per annum.

Observance of rule that interest shall not exceed principal.

5. In taking the account under section 2, the court shall observe the rule that no interest shall at any time be recoverable to an amount in excess of the sum then due, as principal.

Meaning of undue influence.

6. (1) A transaction is said to be induced by "undue influence", within the meaning of section 2 of this Ordinance, where the relations subsisting between the

parties are such that one of the parties is in a position to dominate the will of the other, and uses that position to obtain an unfair-advantage over the other.

(2) Where a person who is in a position to dominate the will of another enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other.

(3) Nothing in subsection (2) shall affect the provisions of section 111 of the Evidence Ordinance.

Illustrations

- (a) A having advanced money to his son, B, during his minority, upon B's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.
- (b) A commercial firm, dealing with the owner of certain plumbago mines indebted to the firm, who is in insolvent circumstances, offers, as an alternative to obtaining an adjudication of his insolvency, to lend him a sum of money on condition of his repaying the amount in instalments at the customary rate of interest, but on the further condition of his binding himself to supply the firm during the period prescribed for the repayment of the loan, and if so required for the rest of his life, with the produce of his mines at a rate twenty *per centum* below the ordinary market rate for the time being. The mine owner, having no means of contesting any action the firm may take, consents. The commercial firm employs undue influence.
- (c) A, being in debt to B, a money lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.

7. Section 2 of this Ordinance shall not apply to transactions in the ordinary course of business by—

Exclusion of certain classes of transactions

- (a) any mutual provident or specially authorized society registered under the Societies Ordinance;
- (b) any society incorporated under the National Housing Act;

- (c) any society registered or deemed to be registered under the Co-operative Societies Law;
- (d) any body corporate or incorporated empowered by a special enactment to lend money in accordance with such special enactment;
- (e) any duly incorporated and registered bank or banking company;
- (f) any person or company bona fide carrying on the business of insurance;
- (g) any pawnbroker licensed under the Pawnbrokers Ordinance.

Duty of persons carrying on money-lending business to keep accounts.

8. (1) A person who carries on the business of money lending, or who advertises or announces himself or holds himself out in any way as carrying on that business, shall keep or cause to be kept a regular account of each loan, clearly stating in plain words and numerals the items and transactions incidental to the account, and entered in a book paged and bound in such a manner as not to facilitate the elimination of pages or the interpolation or substitution of new pages.

(2) If any person, subject to the obligations of this section, fails to comply with any of the requirements thereof, he shall not be entitled to enforce any claim in respect of any transaction in relation to which the default shall have been made :

Provided that in any case in which the court is satisfied—

- (a) that the default was due to inadvertence and not to any intention to evade the provisions of this section; and
- (b) that the receipt of the loan, the amount thereof, the amount of the payments on account, and the other material transactions relating thereto satisfactorily appear by other evidence,

the court may give relief against any such default on such terms as it may deem just.

(3) The preceding provisions of this section shall not apply to any duly incorporated and registered bank or banking company.

9. (1) A person who carries on the business of money lending, or who advertises or announces himself or holds himself out in any way as carrying on that business, shall in respect of every loan—

Duty of persons carrying on money-lending business to give copies of accounts and receipts.

- (a) on request in writing and subject to the payment of a reasonable sum for expenses, furnish the borrower from time to time with a true and certified copy of the account of the loan and any document relating to the loan or any security therefor, and shall on the like request allow him, or any person authorized by him in writing in that behalf, to compare such copy with the original; and
- (b) on request at the time when any payment is made by or on behalf of the borrower on account of the loan, tender to the borrower, or the person making the payment on his behalf a written receipt for the amount of such payment.

(2) An entry in any pass book or statement of account furnished to the borrower by the lender shall be deemed to be equivalent for the purposes of this section to the grant of a receipt for the amount so entered.

(3) If any person, subject to the obligations of this section, fails to comply with any of the requirements thereof, he shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred rupees.

10. (1) In every promissory note given as security for the loan of money after the commencement of this Ordinance, there shall be separately and distinctly set forth upon the document—

Particulars to be set forth in promissory notes.

- (a) the capital sum actually borrowed;

- (b) the amount of any sum deducted or paid at or about the time of the loan as interest, premium, or charges paid in advance; and
- (c) the rate of interest *per centum* per annum payable in respect of such loan.

(2) Any promissory note not complying with the provisions of this section shall not be enforceable:

Provided that in any case in which the court shall be satisfied that the default was due to inadvertence and not to any intention to evade the provisions of this section, it may give relief against the effect of this subsection on such terms as it may deem just.

(3) The setting forth of the particulars required by subsection (1) shall not affect the negotiability of any promissory note.

(4) Any promissory note setting forth the said particulars substantially in the form given in the Schedule shall be deemed to be in compliance with this section.

(5) The provisions of this section shall apply to renewals of any loan, and in all such cases the amount stated as the capital sum actually borrowed shall be the amount of the original loan.

Protection of bona fide holder for value.

11. Nothing in sections 2, 8, or 10 hereof shall impair the rights of any bona fide holder for value of any promissory note given in respect of any loan, without notice of any matter affecting the enforceability of such note:

Provided that in any case in which any borrower is prejudiced by the operation of this section, he shall be entitled to be indemnified by the lender to the extent to which he is so prejudiced.

Penalties for false statements and representations.

12. If any person, by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of the offence

of cheating, and shall be liable on conviction to the penalties prescribed for that offence in the Penal Code.

13. Any person who shall take as security for any loan a promissory note or other obligation in which the amount stated as due is to the knowledge of the lender fictitious, or in which the amount due is left blank, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees, or in the event of a second or subsequent offence, either to a fine not exceeding one thousand rupees, or to simple imprisonment for a period not exceeding six months.

Penalty for taking fictitious or blank promissory note as security.

14. A promissory note given in respect of a loan with regard to which a reduction was made or a sum paid at or about the time of the loan in respect of interest, premium, or charges payable in advance, without such deduction or payment being set forth upon the document in accordance with section 10 (unless the circumstances are such as reasonably to entitle the lender to relief under that section), and any promissory note or other obligation in respect of a loan, with regard to which at or about the time of the loan any payment was made, or any collateral transaction entered into with a view to disguising the actual amount of the sum advanced, or the rate of interest payable in respect thereof, shall be deemed to be a promissory note or obligation in which the amount stated as due is, to the knowledge of the lender, fictitious within the meaning of sections 2 and 13 of this Ordinance.

Meaning of "fictitious".

15. Any person carrying on the business of money-lending, who, with a view to harassing or intimidating his debtor or any member of his family, either personally or by any person acting on his behalf, watches or besets the residence or place of business or employment of the debtor, or any place at which the debtor receives his wages or any other sum periodically due to him, shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred rupees, or to imprisonment of either description for a period not exceeding six months:

Besetting residence, &c. of debtor.

Provided that a person shall not be deemed to commit an offence under this section merely because, either personally or by any person acting on his behalf, he calls at reasonable intervals at such residence or place of business or employment for the purpose of demanding payment of the debt due to him.

18. (1) In any case in which in any civil proceeding a borrower pleads any of the provisions of this Ordinance (whether in any complaint, answer, or other pleading, or in any affidavit or application for the purpose of obtaining leave to defend any action), if the court is satisfied that such plea was not made' in good faith, but was made for the purpose of delaying or harassing the lender, the court may order such borrower to pay for the benefit of the lender a sum equivalent to the amount of any stamp duty incurred by the lender in the proceeding (or such lesser sum as may be ordered by the court), and every such sum so ordered to be paid shall be added to the amount of the judgment recoverable by the lender;

Protection of lenders against frivolous and vexatious pleading of the Ordinance.

Loans to women or children of householders by money lenders visiting the residence of any person.

16. Any person carrying on the business of money-lending, who, by visiting the residence of any person, induces the wife or child of any such person to contract a loan without his written consent, shall be guilty of an offence, and liable on summary conviction to a fine not exceeding one hundred rupees, or to imprisonment of either description for a period not exceeding six months,, or to both such fine and imprisonment.

Burden of proof.

17. (1) In any proceedings taken under, or in pursuance of the provisions of, this Ordinance, in which the lender in any money-lending contract is a person of the class commonly known in Sri Lanka as "Afghans ", such person shall be presumed to be a person carrying on the business of money-lending, unless the contrary is proved to the satisfaction of the court.

Provided that no payment ordered by the court under this subsection shall in any case exceed the amount of two hundred and fifty rupees.

(2) In any case in which in any criminal proceeding instituted against a lender for a breach of any provision of this Ordinance the court is satisfied that the charge was made maliciously, frivolously, or vexatiously, it may direct that the costs of the accused to such an amount as shall be determined by the court shall be payable by the complainant, and any amount so ordered to be paid shall be recoverable for the benefit of the accused in the same manner as a fine imposed by the court.

(2) Save as aforesaid, if any question arises as to whether any person is a person carrying on the business of money lending, the burden of proving that such person in fact carries on such business shall lie on the party alleging it.

[Section 10.]

SCHEDULE

PROMISSORY NOTE GIVEN IN RESPECT OF A LOAN

Stamp.

Particulars required by the Money Lending Ordinance. 1. Capital sum borrowed, Rs..... 2. Interest, premium or charges deducted or paid in advance, if any, Rs..... 3. Rate of interest <i>per centum per annum</i> :.....	On demand (or months after date) I promise to pay to, or order, the sum of Rupees, with interest thereon at the rate of. . <i>per centum per annum.</i>	..,or . <i>per</i>
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(Signature of Borrower.)

CHAPTER 323

MONETARY LAW

Acts
 Nos. 58 of 1949,
 33 of 1954,
 11 of 1963
 [§ 67],
 18 of 1965
 [§ 56],
 16 of 1967,
 5 of 1968,
 21 of 1968,
 2 of 1969
 [§ 7],
 30 of 1971
 [§ 88],
Laws
 Nos. 37 of 1974,
 16 of 1977,
 10 of 1978.
Acts
 Nos. 14 of 1979,
 62 of 1980.

AN ACT TO ESTABLISH THE MONETARY SYSTEM OF SRI LANKA AND THE CENTRAL BANK TO ADMINISTER AND REGULATE THE SYSTEM AND TO CONFER AND IMPOSE UPON THE MONETARY BOARD OF THE CENTRAL BANK POWERS, FUNCTIONS, AND RESPONSIBILITIES NECESSARY FOR THE PURPOSES OF SUCH ADMINISTRATION AND REGULATION. AND TO PROVIDE FOR CONNECTED MATTERS.

[Chapter II—16th December, 1949.]

[Chapters I, and III to VIII—28th August, 1950.]

Short title. 1. This Act may be cited as the Monetary Law Act.

CHAPTER I

ESTABLISHMENT OF THE MONETARY UNIT

The unit of monetary value. 2. (1) The standard unit of monetary value in Sri Lanka shall be the Sri Lanka rupee, which shall be represented by the signs " Re. " and " Rs. ".

(2) The Sri Lanka rupee shall be divided into one hundred units each of which shall be called a " cent ".

The par value of the rupee. [§ 8, Law 10 of 1978.] 3. (1) The Monetary Board shall, by unanimous decision, recommend to the Minister that the par value of the Sri Lanka rupee be determined in terms of special drawing rights or in terms of such other common denominator as may be prescribed by the International Monetary Fund, and upon such recommendation, the Minister shall, by Order published in the Gazette, determine and declare the par value of the Sri Lanka rupee in accordance with the terms specified in such recommendation :

Provided, however, that if the Monetary Board is of the view that international

economic conditions do not warrant the introduction or maintenance of exchange arrangements based on stable but adjustable par values, it may, by unanimous decision, recommend to the Minister that no determination be made under the preceding provisions of this section or that any Order made under this section be revoked, and upon any such recommendation, the Minister shall desist from making an Order under this section, or, as the case may be, revoke any Order made under this section.

(2) The Monetary Board may by unanimous decision recommend to the Minister the alteration of the par value of the Sri Lanka rupee, if the Board is of the opinion that such alteration is rendered necessary in any of the following circumstances, that is to say—

- (a) if the continuance of the existing par value hinders or is likely to hinder unduly, the achievement and maintenance of a high level of production, employment and real income and the full development of the productive resources of

Sri Lanka, or results, or is likely to result, in a serious decline in the International Reserve of the Central Bank or in other utilizable external assets of Sri Lanka or if such decline cannot be prevented except by-

- (i) a large scale increase in the external liabilities of Sri Lanka; or
 - (ii) the persistent use of restrictions on the convertibility of the rupee into foreign currencies in settlement of current transactions; or
 - (iii) undue or sustained Government assistance to one or more of the major export industries; or
 - (iv) prolonged use of measures designed to restrict the volume of imports of essential commodities; or
- (b) if the maintenance of the existing par value is producing, or is likely to produce, a persisting surplus in the balance of payments on current account and a monetary disequilibrium which cannot be adequately corrected by other Government action or by Central Bank action authorized by this Act; or
- (c) if uniform proportionate changes in the par values of currencies of its members are made by the International Monetary Fund,

and upon such recommendation, the Minister may, by Order published in the Gazette, amend, in accordance with the terms specified in such recommendation, any Order made under subsection (1).

(3) Any Order made under subsection (1) or subsection (2) shall cease to have effect after a period of ten days from the date of publication thereof, unless such

Order is approved by Parliament within that period:

Provided, however, that if Parliament is not in session on the date of publication of the Order, the Order shall cease to have effect after a period of ten days from the date of the next meeting of Parliament, unless such Order is approved by Parliament within that period.

4. (1) Every obligation of the following description, that is to say, every contract, sale, payment, bill, note, instrument, and security for money, and every transaction, dealing, matter, and thing whatsoever relating to money, or involving the payment of money or the liability to pay any money, shall, in the absence of an express agreement to the contrary which is not rendered invalid or unlawful by any other written law, be held to be made, executed, entered into, done, and had in Sri Lanka according to the Sri Lanka rupee. The use of the rupee.

(2) In any case where any such obligation which is by agreement expressed in any monetary unit other than the Sri Lanka rupee has, by reason that such agreement is rendered invalid or unlawful by any other written law, to be executed or liquidated in Sri Lanka rupees, the necessary conversions shall be effected on the basis of the legal parities ruling at the time when such obligation falls to be executed or liquidated, or at such other time as may be specified in that behalf in the agreement.

CHAPTER II

ESTABLISHMENT OF THE CENTRAL BANK TO ADMINISTER AND REGULATE THE MONETARY SYSTEM

PART I—THE CENTRAL BANK, ITS POWERS AND PURPOSES

5. An institution, which shall be called and known as the Central Bank of Ceylon (hereinafter referred to as "the Central Bank"), is hereby established as the authority responsible for the administration and regulation of the monetary and banking system of Sri Lanka and, without prejudice to the other provisions of this Act, the Central Bank is hereby charged with the duty of so regulating the supply, availability, cost, and international

F.stablishment and objects of Central Bank.

exchange of money as to secure, so far as possible by action authorized by this Act, the following objects, that is to say :—

- (a) the stabilization of domestic monetary values;

[§ 8, Law 10 of 1978.]

if there has been a determination of the par value of the Sri Lanka rupee, the preservation of the par value of the Sri Lanka rupee and the free use of the rupee for current international transactions;

[§ 8, Law 10 of 1978.]

- (bb) if there has been no determination of the par value of the Sri Lanka rupee, the preservation of the stability of the exchange rate of the Sri Lanka rupee in relation to foreign currencies;

- (c) the promotion and maintenance of a high level of production, employment, and real income in Sri Lanka; and

- (d) the encouragement and promotion of the full development of the productive resources of Sri Lanka.

Powers of the Central Bank and the Monetary Board in relation to section 69A of the Inland Revenue Act, No. 4 of 1963. [§56, 18 of 1965.]

5A. (1) For the purposes of section 69A of the Inland Revenue Act, No. 4 of 1963, the Central Bank may open, maintain and manage special deposit accounts.

(2) Where an institution is approved by the Minister in charge of the subject of Finance by Order made under paragraph (b) of subsection (2) of section 69A of the Inland Revenue Act, No. 4 of 1963, the Monetary Board may determine the terms and conditions subject to which that institution may open, maintain and manage special deposit accounts for the purposes of that section.

Capital of Central Bank.

6. The capital of the Central Bank shall be fifteen million rupees, which sum is hereby appropriated to the bank from the surplus assets of the Board of Commissioners of Currency.

7. The Central Bank shall have its principal place of business in Colombo, and may have such branches, agencies, and correspondents in other places in Sri Lanka or abroad, as may be necessary for the proper conduct of the business of the bank.

Place of business.

PART II—THE MONETARY BOARD

8. (1) The Monetary Board of the Central Bank shall, in addition to determining the policies or measures authorized to be adopted or taken under this Act, be vested with the powers, duties, and functions of the Central Bank under this Act, and be generally responsible for the management, operations, and administration of the bank.

Constitution of Monetary Board. [§ 2, Law 37 of 1974.]

(2) The Monetary Board shall consist of—

- *(a) the Governor of the Central Bank who shall be the chairman of the board;
- (b) the person holding office for the time being as Secretary to the Ministry charged with the subject of Finance; and
- (c) a third member appointed by the President.

(3) In the absence of the Governor from any meeting of the Monetary Board, the Deputy Governor designated as senior by the board shall act as his alternate and shall preside at the meeting and have the right to vote thereat.

(4) In the absence of the member of the Monetary Board mentioned in paragraph (b) of subsection (2) from any meeting of the board, the person holding office for the time being as Deputy Secretary to the Treasury shall act as that member's alternate at the meeting and have the right to vote thereat.

9. (1) The Monetary Board of the Central Bank shall in that name be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

Monetary Board to be a body corporate.

* See Gazette Extraordinary No. 320/14 of 1978.06.08.

(2) The Monetary Board shall have the power, in the name of the Central Bank, to hold property, both movable and immovable, and to sell and dispose of the same, to enter into contracts and otherwise to do and perform all such acts or things as may be necessary for the purpose of carrying out the principles and provisions of this Act.

(3) The Monetary Board may, in the name of the Central Bank, acquire and hold such assets and incur such liabilities as result directly from operations authorized by this Act or as are essential for the proper conduct of such operations.

General powers of Monetary Board.

10. For the purposes of the exercise of its powers, duties, functions, and responsibilities under this Act, the Monetary Board—

- (a) may, subject to the provisions of section 22 and section 23, appoint such officers and servants as the board may consider necessary and remove them from office or dismiss them, and may fix the salaries or wages, or other remuneration, of such officers and servants, and may prescribe their conditions of service;
- (b) may establish and regulate pensions or provident funds or schemes for the benefit of officers and servants and their dependants and nominees, and may make contributions to any such fund or scheme;
- (c) may make such rules and regulations as the board may consider necessary in relation to any matter affecting or connected with or incidental to the exercise, discharge, or performance of the powers, functions, and duties of the Central Bank; and
- (d) may utilize the funds of the Central Bank for the purpose of meeting all expenditure incurred by the board

in the management, administration, and operation of the bank and in the exercise, performance, and discharge of powers, functions, and responsibilities of the bank under this Act.

11. A person shall be disqualified for appointment as the Governor of the Central Bank, or as a member of the Monetary Board under paragraph (c)* of section 8(2), if-

Disqualifi-
cation for
appointment as
Governor, or -
as member of
Monetary
Board.
[§ 3, Law 37 of
1974.]

- (a) he is a Member of Parliament or a member of any local authority; or
- (b) he is a public officer or a judicial officer within the meaning of the Constitution or holds any office or position (other than an academic position), either by election or appointment, for which salary or other remuneration is payable out of the funds of the Republic or the funds of any local authority; or
- (c) he is a director, officer, employee, or shareholder of any banking institution (other than the Central Bank).

12. (1) The Governor of the Central Bank shall be a person appointed for the purpose by the President on the recommendation of the Minister in charge of the subject of Finance.

Appointment,
remuneration,
&c., of
Governor of
Central Bank.

(2) The Governor shall devote his full professional time to the business of the bank; and accordingly the Governor shall not accept or hold any other office or employment whatsoever, whether public or private, and whether remunerated or not:

Provided, however, that nothing in the preceding provisions of this subsection shall be deemed to prevent the Governor from accepting or holding any academic office or position, or from being appointed to be or acting as a member of any commission constituted under the Commissions of Inquiry Act for the purposes of any inquiry relating to monetary, banking, financial or general economic matters or questions

* See Gazette Extraordinary No. 320/14 of 1978.06.08.

affecting the national welfare of Sri Lanka, or of any council, committee, or other body investigating or examining, or advising upon, any such matters or questions.

(3) The Governor shall receive such salary as may be fixed by the President on the recommendation of the Minister in charge of the subject of Finance.

Term of office of Governor and appointed member, [§ 4, Law 37 of 1974.]

13. (1) The term of office of the Governor, and of the person appointed under paragraph (c)* of section 8 (2) (hereinafter referred to as the "appointed member"), shall, subject to the provisions of subsection (2) of this section, be the period of six years commencing on the date of his appointment:

Provided, however, that the term of office of the first appointed member holding office under this Act shall be the period of three years from the date of his appointment.

(2) In the event of the vacation of office by the Governor or by the appointed member before the expiration of his term of office, another person shall be appointed in his place to hold office during the unexpired part of the term of office of the Governor or member so vacating office.

(3) Any person vacating office as Governor or as appointed member by effluxion of time shall be eligible for reappointment.

Remuneration of appointed member.

14. (1) The appointed member shall receive an allowance for each day on which he attends a meeting of the Monetary Board.

[§ 5, Law 37 of 1974]

(2) The amount of such allowance shall be fixed by the Minister in charge of the subject of Finance in consultation with the President.

Alternate for appointed member.

15. (1) Where the appointed member is, through illness, absence from Sri Lanka, or for any other reason, temporarily unable to perform the functions of his office, the President may, on the recommendation of the Minister in charge of the subject of Finance, appoint some other person to act in his place for such period as may be specified by the President.

(2) The provisions of section 11 shall apply in relation to any such appointment.

(3) The person appointed to act as a member of the board under this section shall during the period of his appointment be deemed for the purposes of this Act to be the appointed member.

16. The President may, on the recommendation of the Minister in charge of the subject of Finance, remove the Governor or the appointed member from office—

Removal from office of Governor or appointed member.

(a) if he becomes subject to any disqualification mentioned in section 11; or

(b) if he becomes permanently incapable of performing his duties ; or

(c) if he has done any act or thing which, in the opinion of the President, is of a fraudulent or illegal character or is manifestly opposed to the objects and interests of the Central Bank; or

(d) in the case of the Governor, if he acts in contravention of subsection (2) of section 12.

17. (1) Meetings of the Monetary Board shall be held at least once in every two weeks and, in addition, as frequently as is necessary for the purpose of the discharge of its responsibilities under this Act.

Meetings of Monetary Board. [§ 6, Law 37 of 1974.]

(2) Meetings of the board shall be convened by the Governor.

* (3) At any meeting of the board two members shall constitute a quorum.

* (4) No decision taken at any meeting of the board shall be deemed to be a decision of the board unless it has the concurrence of at least two members, or, in any case where any other provision of this Act requires a unanimous decision, the concurrence of all three members.

* See Gazette Extraordinary No. 320/14 of 1978.06.08.

Attendance of certain officers at meetings of Monetary Board.

18. The Deputy Governor designated as senior by the Monetary Board and the Director of Economic Research may attend meetings of the Monetary Board, but shall not have the right to vote on any question.

20. The Governor of the Central Bank shall be the principal representative of the bank and of the Monetary Board and shall in that capacity, but in accordance with policies or rules approved or made by the board, have authority—

Governor to be principal representative of Central Bank and Monetary Board.

PART fii—THE GOVERNOR AND DEPUTY GOVERNORS

General functions and duties of Governor.

19. (1) The Governor shall be the chief executive officer of the Central Bank and shall accordingly be charged with the following powers, duties, and functions :—

(a) to represent the Central Bank and the board in all relations with other persons, including the Government and any body of persons, corporate or unincorporate, whether public or private, domestic, foreign, or international; and

(b) to represent the Central Bank and the board in any legal proceedings either personally or through an attorney-at-law.

(a) the execution of policies and measures approved by the Monetary Board and, subject to any such policies and measures as may be applicable, the direction, supervision, and control of the operations of the Central Bank and its internal management and administration;

(b) the preparation of the agenda for meetings of the Monetary Board and the submission for the consideration of the board of policies and measures considered by him to be necessary for the purpose of carrying out the principles and provisions of this Act; and

(c) the exercise or performance of such other powers or duties as may be conferred or imposed upon him by the Monetary Board.

21. Subject to and in accordance with such rules, if any, as may be made by the Monetary Board in that behalf, the Governor may delegate to any other officer of the bank his authority to represent the bank for any purpose mentioned in section 20, so however that the Governor shall remain and continue to be responsible to the board for and in respect of any act or thing done or omitted to be done by any such delegate.

Delegation of powers of Governor.

22. The Monetary Board shall, with the concurrence of the Minister in charge of the subject of Finance appoint one or more Deputy Governors who shall perform such duties and exercise such powers as may be assigned to them by the board.

Appointment of Deputy Governors.

23. (1) A person shall be disqualified for appointment as a Deputy Governor if—

Disqualification and removal of Deputy Governors.

(a) he is a Member of Parliament or a member of any local authority;

(b) he is a public officer or a judicial officer within the meaning of the Constitution, or holds any office or position (other than an academic position), either by election or appointment, for which salary or other remuneration is payable out of public funds or the funds of any local authority; or

(2) Every instrument of the following description, that is to say, every contract, promissory note, security, report, balance sheet, statement, or other document and every rule, regulation, order, direction, notice, or requirement which bears the signature of the Governor or such other officer as may be authorized in that behalf by the Monetary Board, shall be deemed for all purposes to be an instrument executed, made, or issued by the Central Bank or by the Monetary Board, as the case may be.

(c) he is a director, officer, employee, or shareholder of any banking institution (other than the Central Bank).

(2) The Monetary Board may, with the concurrence of the Minister in charge of the subject of Finance, remove any Deputy Governor from office—

(a) if he becomes subject to any disqualification mentioned in subsection (1); or

(b) if he becomes permanently incapable of performing his duties ; or

(c) if he has done any act or thing which, in the opinion of the board, is of a fraudulent or illegal character or is manifestly opposed to the objects and interests of the Central Bank; or

(d) if, in the opinion of the board, he has failed to carry out his duties.

Deputy Governor to act as Governor.

24. In the event of the temporary absence from duty of the Governor or of the temporary inability of the Governor to perform his functions and duties, the Deputy Governor designated as senior by the board shall act as the chief executive officer of the Central Bank and shall have authority to exercise the powers and perform the functions and duties of the Governor under this Act.

PART IV—DEPARTMENTS OF THE CENTRAL BANK

(A)—The Department of Economic Research

Establishment and functions of department of economic research.

25. (1) The Central Bank shall establish and maintain a department of economic research which shall prepare data and conduct economic research, for the guidance of the Monetary Board and the Governor in formulating, implementing, and executing policies and measures and for the information of the public, in the subjects of money and banking and other economic subjects of general interest.

(2) The head of the department established under subsection (1) shall be called the Director of Economic Research.

16. (1) The Director of Economic Research or any officer of the department of economic research authorized for the purpose by the Director may in such manner as may be prescribed by rules made under section 10—

Authority to obtain information.

(a) require any person to furnish to him such information as he may consider it necessary to obtain for the purposes of the proper discharge of the functions and responsibilities of the Central Bank; or

(b) require any person to produce for inspection any books or records in his possession containing or likely to contain any such information.

(2) Any person who without reasonable cause fails or refuses to comply with any requirement made under subsection (1) shall be guilty of an offence.

(3) In this section "person" includes any officer of any department of Government, and any body of persons, corporate or unincorporate, whether established or constituted under any written law or otherwise.

27. The Central Bank shall promote and sponsor the training of technical personnel in the subjects of money, banking, statistics, finance, and other economic subjects, and for this purpose, the Central Bank is hereby authorized to defray the costs of study, in Sri Lanka or abroad, of employees of the bank who are of proved merit, or of any other qualified persons selected by the Monetary Board.

Training of technical personnel.

(B)—The Department of Bank Supervision

28. (1) For the purposes of the continuous supervision and periodical examination of all banking institutions in Sri Lanka, the Central Bank shall establish and maintain a department of bank supervision.

Establishment and functions of department of bank supervision.

(2) The head of the department established under subsection (1) shall be called the Director of Bank Supervision.

Examination of banking institutions.

29. (1) The Director of Bank Supervision shall examine, or cause an examiner of his department to examine, the books and accounts of every commercial bank in Sri Lanka at least once in each examination period, and shall make such further examinations in respect of any specified bank whenever required so to do by the Governor,

(2) Examination of books and accounts of banking institutions other than commercial banks, or of any specified banking institution, shall be made if directions in that behalf are given by the Monetary Board.

(3) A report on the results of each examination under this section shall be furnished by the Director of Bank Supervision to the Governor.

(4) It shall be lawful for the Director of Bank Supervision or for any examiner of his department—

- (a) to administer oaths or affirmations, in accordance with the Oaths Ordinance, to any director, officer, or employee of any banking institution;
- (b) to require any such director, officer, or employee to furnish such information as the Director or examiner may consider it necessary to obtain for the purpose of enabling the true condition of the affairs of the institution to be ascertained; or
- (c) to require any such director, officer, or employee to produce for inspection any books, records, or other documents in his possession containing or likely to contain any such information.

(5) It shall be the duty of every director, officer or employee of any banking institution to afford to the Director of Bank Supervision or to any examiner of his department full opportunity to examine books and records and its cash, available assets, full liabilities and general condition, whenever so requested by the Director.

(6) In this section " examination period " means each period of such duration as may be fixed for the purpose by the Monetary Board.

30. (1) In any case where the Director of Bank Supervision is satisfied, after examination by himself or any examiner of the affairs of any banking institution, or upon information received from the institution, that the institution is insolvent or is likely to become unable to meet the demands of its depositors, or that its continuance in business is likely to involve loss to its depositors or creditors, the Director shall make a report accordingly to the Governor for submission to the Monetary Board; and if the board, upon review of the facts and circumstances, is of opinion that action should be taken as hereinafter provided, the board may make order directing the institution forthwith to suspend business in Sri Lanka and directing the Director to take charge of all books, records and assets of the institution and to take such measures as may be necessary to prevent the continuance of business by the institution.

Power of Monetary Board to suspend or restrict business of a banking institution.

(2) Notwithstanding anything in any written or other law, no action or proceeding may be instituted in any court for the purpose of securing the review or revocation of any order made under subsection (1) or in respect of any loss or damage incurred, or likely to be or alleged to be incurred, by reason of such order.

(3) An order made by the Monetary Board under subsection (1) in respect of any banking institution shall cease to have effect upon the expiration of a period of thirty days from the date on which it is made ; and it shall be the duty of the board, as soon as practicable and in any event before the expiration of the said period—

- (a) to make order permitting the institution to resume business, either unconditionally or subject to such conditions as the board may consider necessary in the public interest or in the interests of the depositors and other creditors of the institution; or

(b) to cause the Director of Bank Supervision to make application to the competent court under such written law as may be applicable in that behalf for the winding up of the institution.

(4) Where an order has been made by the Monetary Board under subsection (3) permitting the resumption of business by any banking institution subject to such conditions as may be specified in the order, the competent court may, on application made to it in that behalf by the banking institution at any time while the order is in force, make a declaration permitting the institution to resume business unconditionally, or varying or altering, in such manner as the court may determine, any or all of the conditions specified by the board ; and any such declaration shall have effect notwithstanding anything in the order made by the board under subsection (3).

The Director of Bank Supervision shall be named respondent to any such application and shall be entitled on behalf of the board to be heard and to adduce evidence at the hearing thereof.

(5) In any case where application is made by the Director as provided in subsection (3) for the winding up of any banking institution—

(a) the institution shall not carry on business during the pendency of the application unless it is authorized so to do by the court and except in accordance with such conditions, if any, as may be specified by the court; and

(b) the court, if it is of opinion after such inquiry as it may consider necessary, that the institution is not insolvent, may make a declaration permitting the institution to resume business either unconditionally or subject to such conditions as the court may consider necessary in the public interest or in the interests of the depositors and other creditors of the institution.

(6) Every order made by a competent court under this section shall be subject to an appeal to the Court of Appeal and the provisions of the Civil Procedure Code relating to appeals in civil actions shall apply *mutatis mutandis* in the case of any such appeal:

Provided that an order under paragraph (tf) of subsection (5) shall be final and shall not be subject to appeal.

(7) Every application to a competent court under this section shall be deemed to be an action of the value of five thousand rupees.

(8) In this section, "competent court", in relation to any banking institution, means the District Court of Colombo or of the district in which the principal office in Sri Lanka of the institution is maintained.

(9) Nothing in this section shall apply to or in relation to any banking institution unless it is an institution that is subject to or governed by any other written law which confers power to order winding up or liquidation.

31. In any case where an order is made, whether in pursuance of an application under section 30 or otherwise, for the winding up of any banking institution, then, notwithstanding anything in any other written law, the Director of Bank Supervision shall be appointed to be the liquidator for the purposes of such winding up.

Director of Bank Supervision to be liquidator in winding up of a banking institution.

32. (I) Any owner, agent, director, officer, or employee of any banking institution, who fails to furnish any information or to produce any book, record, or other document when required so to do by the Director of Bank Supervision or any examiner under the preceding provisions of this Part or who obstructs or fails to permit the Director or any examiner to make any examination authorized to be made under any such provision, shall be guilty of an offence.

Offences in regard to information and examinations.

(2) Any person who in any report or information furnished to the Director of Bank Supervision, or to any examiner, makes any statement which he knows to be false shall be guilty of an offence.

Scheme to insure deposits held by banking institutions and co-operative societies. [§ 7, Law 37 of 1974.]

32A. The Central Bank may establish, maintain, manage and control, as determined by the Monetary Board from time to time, a scheme for the insurance of deposits held by banking institutions and societies registered under the Co-operative Societies Law.

Insurance of deposits held by banking institutions of societies. [§ 7, Law 37 of 1974.]

32B. (1) Any banking institution, or any society registered under the Co-operative Societies Law and carrying on banking business of any kind, may, as prescribed, apply to the Central Bank to insure deposits held by such institution or society.

(2) The Central Bank may, in its discretion, accept any application made under subsection (1).

(3) Every banking institution or society, whose application has been accepted under subsection (2), is hereafter in this Part of this Act referred to as "insured bank" or "insured society", as the case may be.

Premiums payable on deposits. [§ 7, Law 37 of 1974.]

32C. (1) Every insured bank or insured society shall be liable to pay a premium to the Central Bank on its deposits on such basis as may be determined by the Monetary Board from time to time, with the approval of the Minister:

Provided that the premium payable by any insured bank or insured society for any period shall not exceed fifteen cents per annum for every hundred rupees of the total amount of the deposits in that bank or that society.

(2) The premium shall be payable for such periods, at such times and in such manner as may be determined by the Monetary Board.

(3) If an insured bank or insured society makes any default in the payment of any premium, it shall, for the period of such default, be liable to pay to the Central Bank, interest on the amount of such

premium at such rate as may be determined by the Monetary Board.

32D. (1) The Director of Bank Supervision may, at his discretion, examine, or cause an examiner of his department to examine, the books and accounts of any insured bank or insured society.

Examination of insured banks and insured societies, &c. [§ 7, Law 37 of 1974.]

(2) The provisions of subsections (4) and (5) of section 29, section 30, section 31 and section 32 of this Act shall, *mutatis mutandis*, apply to insured banks and insured societies.

32E. Regulations may be made by the Monetary Board in respect of_

Regulations. [7, Law 37 of 1974]

- (o) the periods for which, the times at which and the manner in which premiums will be calculated and may be paid by an insured bank or an insured society;
- (b) the interest which may be charged from an insured bank or an insured society where it makes default in the payment of premiums;
- (c) any matter that is stated or is required to be prescribed or in respect of which a regulation is authorized to be made under this Part of this Act; and
- (d) any other matter affecting, connected with, or incidental to, the exercise, discharge, or performance of the powers, functions and duties of the Central Bank under this Part of this Act.

(C)—Other Departments

33. The Monetary Board may establish and maintain such other departments as it may consider necessary for the proper and efficient conduct of the business of the Central Bank.

Other departments.

PART V—REPORTS AND PUBLICATIONS

34. The Central Bank shall, before the eighth day of each month, publish a general balance sheet showing the volume and

Monthly statement-

composition of its assets and liabilities as on the last working day of the preceding month.

Board during the year, which relate to the functions or operations of the Central Bank or of banking institutions operating in Sri Lanka.

Annual report. **35.** (1) Within four months after the end of each financial year, the Monetary Board shall submit to the Minister in charge of the subject of Finance, and shall publish and annual report on the condition of the Central Bank and a review of the policies and measures adopted by the Monetary Board during the financial year and an analysis of the economic and financial circumstances which prompted those policies and measures.

(3) The annual report shall be laid before Parliament within fourteen days after the receipt thereof by the Minister in charge of the subject of Finance, if Parliament is then in session, or, if Parliament is not in session, within fourteen days after the commencement of the next ensuing session.

(2) The annual report shall include a statement of the financial condition of the Central Bank, and shall present as a minimum the following data:—

36. The balance sheets and other financial statements of the Central Bank (including the statement of financial condition referred to in section 35 (2)) shall be signed by the Governor and the Chief Accountant of the Bank, and shall be certified by the Auditor-General.

- (a) the monthly movements of the money supply, distinguishing between currency and demand deposits;
- (b) the monthly movements of purchases and sales of exchange and of the International Reserve of the Bank;
- (c) the annual balance of payments of Sri Lanka;
- (d) the monthly indices of wages, of the cost of living, and of import and export prices;
- (e) the monthly movement, in summary form, of exports and imports, by volume and value;
- (f) the monthly movement of the accounts of the Central Bank and, in consolidated form, of the commercial banks;
- (g) the principal data on Government receipts and expenditures and on the state of the public debt, both domestic and foreign ; and
- (h) the texts of the major legal enactments and administrative measures adopted by the Government and the Monetary

PART VI—PROFITS, LOSSES, AND SPECIAL ACCOUNTS

37. The financial year of the Central Bank shall be the calendar year.

38. Before the expiration of thirty days after the end of each financial year, the Central Bank shall determine its net profits or losses, and in the calculation of net profits the bank shall make adequate allowance or establish adequate reserves for such purposes as the Monetary Board may deem fit.

39. Before the expiration of sixty days after the end of each financial year, the Monetary Board shall carry out the distribution of the net profits in accordance with the following provisions :—

- (a) *Firstly*—all the net profits of the Central Bank shall be used to reduce the Monetary Adjustment Account, defined in the following section, whenever such account exists, until the account has been completely liquidated.
- (b) *Secondly*—any net profits remaining after liquidation of the Monetary Adjustment Account, if any, shall be carried to surplus until such time as the total capital accounts of the bank reach a sum equal to at least

fifteen *per centum* of the difference between the total assets of the bank and its assets in gold and in foreign currencies.

- (c) *Thirdly*—any net profits remaining after compliance with the preceding provisions shall, after consultation with the Minister in charge of the subject of Finance, either be applied in liquidation of any outstanding Government obligations to the Central Bank or be paid and credited to the Consolidated Fund.

Extraordinary expenses of currency issue and monetary stabilization.

40. The Monetary Board may, whenever it deems it advisable, exclude from the computation of the annual profits and losses of any particular financial year all or any part of any extraordinary expenses of the following description which may have been incurred during that year:—

- (a) the costs of any extraordinary coin or note issue;
- (b) expenditures incurred in *the issae* and placing of, and the payment of interest on, the securities to which reference is made in section 91;
- (c) interest paid on bank reserves in accordance with section 95.

The amounts so excluded from the computation of profits and losses shall be entered in a suspense account which shall be called the "Monetary Adjustment Account". The expenses charged to such account shall in every case be amortized not later than five years after they are so charged.

Revaluation profits and losses.

41. (1) Profits or losses arising from any revaluation of the Central Bank's net assets or liabilities in gold or foreign currencies as a result of changes in the par value of the Sri Lanka rupee or of changes in the parities or exchange rates of foreign currencies with respect to the Sri Lanka rupee, or profits or losses assumed by the Central Bank in accordance with the provisions of section 79, shall not be included in the computation of the annual profits and losses of the Central Bank.

(2) All such profits or losses shall be carried in a special account, which shall be

named "International Reserve Revaluation Account", and the net balance of which shall appear either among the liabilities or among the assets of the Central Bank, according as the revaluations have produced net profits or net losses.

(3) The International Reserve Revaluation Account shall be neither credited nor debited for any purposes other than those specifically mentioned in this section.

PART VII—AUDIT

42. (1) The accounts of the Central Bank shall be audited by the Auditor-General. Audit.

(2) The Auditor-General shall submit an annual report on the accounts of the Central Bank to the Minister in charge of the subject of Finance who shall lay such report before Parliament.

43. (1) The Auditor-General and any officer of his department authorized by him in that behalf shall at all times have the right of access to, and examination of, the accounts of the Central Bank and of all books and documents containing information with respect to matters connected with such accounts. Powers and functions-

(2) The Auditor-General shall at such intervals as may be fixed by the Minister in charge of the subject of Finance furnish to him reports setting out the results of the examination of the accounts of the Central Bank.

PART VIII—RESTRICTIONS RELATING TO CENTRAL BANK OFFICERS AND SERVANTS

***45.** (1) Except in the performance of his duties under this Act, every officer or servant of the Central Bank shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any banking institution, or of any client of any such institution, that may come to his knowledge in the performance of his duties; and any such officer or servant who communicates any such matter to any Duty to maintain secrecy. [§ 8, Law 37 of 1974.]

• Section 44 is repealed by Act No. 62 of 1980.

person other than the Monetary Board or an officer of the Central Bank authorized in that behalf by the Governor, or suffers or permits any unauthorized person to have access to any books, papers, or other records relating to any banking institution, shall be guilty of an offence.

(2) No officer or servant of the Central Bank shall be required to produce in any court any book or document or to divulge or communicate to any court any matter or thing coming under 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.

(3) Where, in any legal proceedings, a certified copy of any book or document of the Central Bank or of any entry in such book or document is produced, such certified copy shall be received as prima facie evidence of the existence of such book, document or entry, as the case may be, and shall be admitted as evidence of the matters, transactions or accounts therein recorded in every case where, and to the same extent as, the original book, document or entry is now by law admissible, but not further or otherwise.

In this subsection, "certified copy" in relation to any book, document or entry, means a copy of such book, document or entry, together with a certificate written at the foot of such copy that it is a true copy of such book, document or entry; that such book or document is still in the custody of the Central Bank; that such entry is contained in one of the ordinary books of the Central Bank, and was made in the usual and ordinary course of business, such certificate being dated and subscribed with his name and official title, by such officer as may be authorized for the purpose by the Governor of the Central Bank.

Liability for False statements in Central Bank accounts, Ac.

46. Any member of the Monetary Board or any officer or auditor of the Central Bank who certifies or verifies any statement, account, or list required to be furnished to the Minister in charge of the subject of Finance in pursuance of this Act, knowing the same to be false in any material particular, shall be guilty of an offence.

47. (1) No member of the Monetary Board or officer or servant of the Central Bank shall be liable for any damage or loss suffered by the bank unless such damage or loss was caused by his misconduct or wilful default.

(2) Every member of the Monetary Board and every officer or servant of the Central Bank shall be indemnified by the bank from all losses and expenses incurred by him in or about the discharge of his duties, other than such losses and expenses as the board may deem to have been occasioned by his misconduct or wilful default.

CHAPTER III

THE CENTRAL BANK AND THE MEANS OF PAYMENT

PART I—ISSUE OF MEANS OF PAYMENT

(A)—Currency

48. In this Act, "currency" means all currency notes and coins issued or circulating in accordance with the provisions of this Act.

Definition of "currency".

49. The Central Bank shall have the sole right and authority to issue currency in Sri Lanka.

Issue power.

50. (1) No person other than the Central Bank shall draw, accept, make, or issue any bill of exchange, promissory note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the bills or notes payable to bearer on demand of any such person :

Prohibition against issue of notes by any person other than Central Bank.

Provided that cheques or drafts payable to bearer on demand may be drawn on commercial banks or agents by their customers or constituents in respect of moneys in the hands of such banks or agents held by them at the disposal of the person drawing such cheques or drafts.

(2) Every person who contravenes any provision of this section shall be guilty of an offence.

Liability for notes and coins-

51. Currency notes and coins issued by the Central Bank shall be liabilities of the bank. The bank's holdings of its own notes and coins shall not be considered as part of its currency issue and, accordingly, shall not be taken into account in determining the assets or liabilities of the bank.

56. The Central Bank shall withdraw from circulation and shall cancel all currency notes and coins which for any reason whatsoever are unfit for circulation, and shall, as soon as practicable and subject to such rules and regulations as may be made in that behalf by the Monetary Board with the approval of the Minister in charge of the subject of Finance, replace them by the delivery in exchange of fit notes and coins.

Replacement of currency unfit for circulation.

Currency to be legal tender.

52. All currency notes and coins issued by the Central Bank shall be legal tender in Sri Lanka for the payment of any amount.

Characteristics of currency

53. (1) The Monetary Board shall, with the approval of the Minister in charge of the subject of Finance, prescribe the denominations, dimensions, designs, inscriptions, and other characteristics of currency notes issued by the Central Bank.

57. (1) The Monetary Board may in its discretion, by notice published in the Gazette, call in for replacement currency notes or coins of any issue or denomination.

Retirement of old notes and coins.

(2) Every currency note shall bear the signatures in facsimile of the Minister in charge of the subject of Finance and of the Governor of the Central Bank and shall be stated on the face thereof to be issued on behalf of the Government of Sri Lanka.

(2) Notes and coins called in for replacement in accordance with this section shall remain legal tender for such period not exceeding one year from the date of call as may be prescribed by the Monetary Board and shall thereafter cease to be legal tender.

(3) The Monetary Board shall, with the approval of the Minister in charge of the subject of Finance, prescribe the metals, fineness, weight, size, designs, denominations, and other characteristics of the coins issued by the Central Bank.

(3) During the period of five years succeeding the date of call, or such longer period as the Monetary Board may determine, the Central Bank or any agent authorized by the board for the purpose, shall, upon surrender of any currency notes or coins so called in for replacement, replace such notes or coins, at par and without charge, by the delivery in exchange of fit notes or coins.

Contracts for printing of notes and minting of coins.

54. The Central Bank shall have the authority to enter into contracts with other persons in Sri Lanka or abroad for the printing of currency notes and the minting of coins.

(4) All currency notes and coins called in for replacement and not surrendered as provided in subsection (3) shall cease to be a liability of the Central Bank and the bearer of any such notes or coins shall not be entitled to any compensation.

Exchange of currency.

55. Upon surrender by any person to the Central Bank of any Sri Lanka currency, the bank shall deliver to that person in exchange, on demand and without charge, Sri Lanka coins and currency notes of equivalent value in such denominations as may be required by that person :

58. Any person who without the authority of the Monetary Board—

Mutilation or defacement of currency notes.

- (a) cuts, perforates, or in any other way whatsoever mutilates any currency note,
- (b) prints, stamps, or draws anything upon any currency note, or affixes any seal or stamp to or upon any currency note, or
- (c) attaches or affixes to or upon any currency note anything in the nature or form of an advertisement,

Provided that if the bank is temporarily unable to deliver currency notes or coins of any required denomination, the bank shall be deemed to comply with its obligation if it delivers notes or coins of the next higher or next lower available denomination.

shall be guilty of an offence.

Use of currency coin otherwise than as legal tender. [§ 2. 14 of 1979.]

58A. (1) Any person who, without the authority of the Monetary Board, melts, breaks up, perforates, mutilates or uses otherwise than as legal tender, any coin which is legal tender in Sri Lanka shall be guilty of an offence.

(2) Any person who knowingly uses, possesses or deals with any metal or article which he knows or has reasonable cause to believe, is derived from any coin which has been dealt with in contravention of subsection (1), shall be guilty of an offence.

Conclusive evidence of imitation of a currency note.

59. (1) Where in any proceedings in any court it has to be determined whether a document purporting to be a currency note is an imitation of a currency note, a certificate under the hand of the Governor of the Central Bank or, if the Governor is temporarily absent from duty or temporarily unable to perform his functions and duties, a certificate under the hand of the Deputy Governor for the time being acting as the chief executive officer of the Central Bank, to the effect that such document is an imitation of a currency note and is not a currency note issued or deemed to be issued by the Central Bank of Ceylon shall be received in those proceedings as conclusive evidence of the fact that such document is an imitation of a currency note.

(2) The Governor or the Deputy Governor of the Central Bank who issues a certificate under this section shall not be examined or cross-examined with respect to that certificate.

(3) Every certificate issued under this section shall be in the following form:—

I, Governor of the Central Bank of Ceylon,*/Deputy Governor for the time being acting as the chief executive officer of the Central Bank of Ceylon, do hereby certify that I have examined the document marked which purports to be a currency note of the denomination -- bearing number and dated and that such document is an imitation of a currency note and is not a currency note issued or deemed to be issued by the Central Bank of Ceylon.

Signature
Date:.. .

(*Delete inapplicable words.)

(4) This section shall apply—

(a) to proceedings in respect of all offences whether committed before or after the 8th day of July, 1954, and

(b) to proceedings pending before or awaiting inquiry or trial in any court on the 8th day of July, 1954.

Application of section.

59A. (1) Where in any proceedings in any court it has to be determined whether an article purporting to be a coin or a current coin is an imitation of such coin or current coin, a certificate under the hand of the Governor of the Central Bank or, if the Governor of the Central Bank is temporarily absent from duty or temporarily unable to perform his functions and duties, a certificate under the hand of the Deputy Governor for the time being acting as the chief executive officer of the Central Bank, to the effect that such article is an imitation of a coin or a current coin, as the case may be, and is not a coin or a current coin issued or deemed to be issued by the Central Bank of Ceylon, shall be received in those proceedings as conclusive evidence of the fact that such article is an imitation of a coin or current coin.

Conclusive evidence of imitation of a coin or current coin [§ 2,5 of 1968-]

(2) The Governor or the Deputy Governor of the Central Bank who issues a certificate under this section shall not be examined or cross-examined with respect to that certificate.

(3) Every certificate issued under this section shall be in the following form:—

I, Governor of the Central Bank of Ceylon,*/Deputy Governor for the time being acting as the chief executive officer of the Central Bank of Ceylon, do hereby certify that I have examined the article delivered in a sealed packet by together with letter No. in respect of Case No. which purports to be a coin*/ current coin of the denomination, and that such article is an imitation of a coin*/ current coin issued or deemed to be issued by the Central Bank of Ceylon and is not a coin*/ current coin issued or deemed to be issued by the Central Bank of Ceylon.

Signature
Date: ----

(*Delete inapplicable words.)

- (4) This section shall apply—
- (a) to proceedings in respect of all offences whether committed before or after the fifteenth day of August, 1967; and
 - (b) to proceedings pending before or awaiting inquiry or trial in any court on the fifteenth day of August, 1967.

(5) In this section, the expression "current coin" shall have the same meaning as in the Penal Code.

(B)—Demand Deposits

Definition of "demand deposits".

60. For the purposes of this Act, "demand deposits" means all those liabilities of the Central Bank and of commercial banks which are denominated in Sri Lanka currency and are subject to payment in legal tender upon demand by cheque, draft, or order.

Acceptance and creation of demand deposits.

61. The acceptance or creation of demand deposits shall be subject to the control of the Monetary Board in accordance with the powers granted to the board under this Act.

PART II—THE MONEY SUPPLY

Definition of "the money supply".

62. For the purposes of this Act, "the money supply" means all currency and demand deposits owned by persons other than commercial banks or the Government.

CHAPTER IV

THE CENTRAL BANK AND NATIONAL MONETARY POLICY

PART I—DOMESTIC MONETARY STABILIZATION

Principles governing determination of domestic monetary policy.

63. (1) The Monetary Board shall endeavour so to regulate the supply, availability, and cost of money as to secure, so far as possible by action authorized by this Act, the objects mentioned in section 5; and shall for such purpose have regard to the monetary needs of particular sectors of the economy as well as of the economy as a whole.

(2) In determining its domestic monetary policies the Monetary Board shall especially consider their effects on Sri Lanka's international financial position as evidenced by the relation of domestic to world prices and costs, by the level and composition of exports and imports, by the international balance of payments, and, ultimately, by the ability of the Central Bank to maintain the international stability of the Sri Lanka rupee and its free convertibility for current international transactions.

64. (1) Whenever the Monetary Board anticipates economic disturbances that are likely to threaten domestic monetary stability in Sri Lanka or whenever abnormal movements in the money supply or in the price level are actually endangering such stability, it shall be the duty of the board—

Action to preserve monetary stability.

- (a) to adopt such policies, and to cause such remedial measures to be taken, as are appropriate in the circumstances and authorized by this Act; and
- (b) to submit to the Minister in charge of the subject of Finance, and, if not prejudicial to the public interest, make public, a detailed report which shall include, as a minimum, an analysis of—

- (i) the causes of the anticipated economic disturbances, or of the actual abnormal movements of the money supply or the price level;
- (ii) the probable effects of such disturbances or movements on the level of production, employment, and real income in Sri Lanka; and
- (iii) the measures which the Monetary Board has already taken, and the further monetary, fiscal, or administrative measures which it proposes to take or recommends for adoption by the Government.

(2) Without prejudice to the generality of the provisions of subsection (1), it shall be the duty of the Monetary Board to submit a report in terms of paragraph (b) of that subsection if at the end of any month the board finds that the amount of the money supply has increased or decreased by more than fifteen *per centum*, or the cost of living index has increased by more than ten *per centum*, of its level at the end of the corresponding month in the preceding year.

(3) The Monetary Board shall continue to submit further reports periodically so long as the circumstances which occasioned the submission of the first report constitute a threat to domestic monetary stability.

PART II—INTERNATIONAL MONETARY STABILIZATION

Principles governing determination of international monetary policy. [§ 8, Law 10 of 1978.]

65. In determining its international monetary policy the Monetary Board shall endeavour to maintain the par value of the Sri Lanka rupee, or where no determination of such par value has been made under section 3, maintain such exchange arrangements as are consistent with the underlying trends in the country and so relate its exchange with other currencies as to assure its free use for current international transactions.

International Reserve.

66. (1) In order to maintain the international stability of the Sri Lanka rupee and to assure the greatest possible freedom of its use for current international transactions, the Monetary Board shall endeavour to maintain among the assets of the Central Bank an international reserve adequate to meet any foreseeable deficits in the international balance of payments.

[§ 8, Law 10 of 1978.]

(2) In judging the adequacy of the International Reserve, the Monetary Board shall be guided by the estimates of prospective receipts and payments of foreign exchange by Sri Lanka; by the volume and maturity of the Central Bank's own liabilities in foreign currencies; and, in so far as they are known or can be estimated, by the volume and maturity of the foreign exchange assets and liabilities of the Government and of banking institutions and other persons in Sri Lanka. So long as any

part of the foreign currency assets of Sri Lanka are held in currencies which are not freely convertible by the Central Bank, whether directly or indirectly, into special drawing rights or such other common denominator prescribed by the International Monetary Fund or into foreign currencies freely usable in international transactions, or are frozen, the Monetary Board shall also take this factor into account in judging the adequacy of the International Reserve of the Central Bank.

67. (1) The International Reserve of the Central Bank may include the following assets;—

Composition of International Reserve.

- (i) gold;
- (ii) assets in foreign currencies in the form of—
 - (a) documents and instruments of types customarily employed for the international transfer of funds; or
 - (b) demand and time deposits in central banks, treasuries, and commercial banks abroad ; or
 - (c) securities of foreign Governments, or
 - (d) foreign notes and coins ; and

(iii) either the whole, or such maximum percentage of the whole, of the holdings of such drawing rights in the Special Drawing Rights Department in the International Monetary Fund according as may be determined from time to time by the Monetary Board. [§ 8, Law 10 of 1978-]

(2) The Monetary Board shall endeavour to hold at least a nuclear reserve in gold or currencies freely convertible by the Central Bank, whether directly or indirectly, into gold. The board shall particularly consider the prospects of stability and convertibility of all of the currencies in the International Reserve as well as the anticipated demand for such currencies.

Action to preserve the international stability of the rupee.

68. (1) Whenever the Monetary Board anticipates that there may develop a deficit in the international balance of payments of such magnitude as to cause a serious decline in the International Reserve, or whenever there is an imminent threat of a serious decline in the International Reserve, or whenever the International Reserve actually falls to a level which the board considers to be a threat to the international stability of the Sri Lanka rupee, or whenever international payments or remittances are being made which in the opinion of the board constitute an actual or a potential threat to such stability or are prejudicial to the national welfare, it shall be the duty of the board—

- (a) to adopt such policies, and to cause such remedial measures to be taken, as are appropriate to the circumstances and authorized by this Act, and
- (b) to submit to the Minister in charge of the subject of Finance a detailed report which shall include, as a minimum, an analysis of—
 - (i) the nature, causes, and magnitude of the actual or potential threat to the international stability of the Sri Lanka rupee; and
 - (ii) the measures which the board has already taken, and the further monetary, fiscal, or administrative measures which it proposes to take or recommends for adoption by the Government.

(2) The Monetary Board shall submit further periodical reports to the Minister in charge of the subject of Finance until the threat to the international stability of the rupee has disappeared.

CHAPTER V

INSTRUMENTS OF CENTRAL BANK ACTION

PART I—OPERATIONS IN GOLD AND FOREIGN EXCHANGE

***70.** The Central Bank may import, export, buy, sell, hold, or otherwise deal in gold in any form. Deals in gold

71. (1) The Central Bank may engage in spot or other foreign exchange operations, that is to say, it may effect transfers of funds by telegram, letter, or other method of communication, and may buy and sell foreign notes and coins and any documents or instruments of types customarily employed for the international transfer of funds. Foreign exchange operations of Central Bank.

(2) Foreign exchange operations may be transacted by the Central Bank only with—

- (a) commercial banks operating in Sri Lanka;
- (b) the Government and agencies or institutions acting on behalf of the Government (whether established by any written law or otherwise);
- (c) foreign commercial or central banks;
- (d) international financial institutions; and
- (e) foreign Governments and agencies or institutions acting on behalf of foreign Governments.

72. (1) In order to ensure the free use of the Sri Lanka rupee for current international transactions, the Central Bank shall buy any quantity of foreign exchange offered, or sell any quantity of foreign exchange demanded, by any commercial bank in Sri Lanka. Purchases and sales of foreign exchange from or to commercial banks in Sri Lanka.

Provided that nothing in the preceding provisions of this subsection shall require the Central Bank to purchase foreign exchange in any currency which is not freely convertible by the bank, whether directly or [§ 8, Law 10 of 1978-]

¹ Section 69 is repealed by Law No. 10 of 1978.

indirectly, into special drawing rights or such other common denominator prescribed by the International Monetary Fund or into foreign currencies freely usable in international transactions, unless, in the opinion of the Monetary Board, there is an adequate demand, actual or anticipated, for such currency for the purpose of making payments for current international transactions, or unless the Monetary Board, with the concurrence of the Minister, makes a determination that the acquisition of such currency is in the national interest.

(2) Notwithstanding anything in subsection (1), the Monetary Board may by unanimous decision and with the approval of the Minister in charge of the subject of Finance temporarily suspend or restrict sales of foreign exchange by the Central Bank in any case where such action is considered necessary in order to conserve the International Reserve of the Central Bank during any period of crisis affecting exchange.

Parities of foreign currencies with respect to the rupee.

73. (1) The Governor shall determine and certify the parities with respect to the Sri Lanka rupee of foreign currencies ordinarily required for the international transactions of Sri Lanka. Parities so determined and certified shall be published in the Gazette, and shall be recognized as the legal parities for all purposes. The Governor may in addition certify the parity of any foreign currency not included in the published list of parities.

(2) The Governor may at any time desist from certifying or publishing the parity of any foreign currency if the exchange rates for that currency in international markets are unstable or widely divergent.

(3) The legal parities of foreign currencies with respect to the Sri Lanka rupee shall be determined by the Governor, in accordance with the following provisions:—

(a) The currency of a country which is a member of the International Monetary Fund shall have its parity with respect to the rupee established on the basis of its par value as agreed with the fund in every case

where the country is permitting exchange transactions between its currency and the currencies of other members only within the maximum and the minimum rates prescribed in the International Monetary Fund Agreement for such transactions. In any other case, or if the par value of the currency of a member country has not been agreed with the fund, the parity of such currency with respect to the rupee may be calculated on the basis of the exchange rates for that currency in the international markets; and if there is divergence among the rates quoted in the international markets, the Governor may determine which rates to use for the determination of parity.

(b) The currency of a country which is not a member of the International Monetary Fund shall have its parity with the rupee calculated on the basis of the exchange rates for the currency in international markets; and if there is divergence among the rates quoted in international markets the Governor may determine which rates shall be used for the determination of the parity. [§ 8, Law 10 of 1978]

74. (1) The Monetary Board shall from time to time determine the rates at which the Central Bank will buy and sell exchange rates for Central Bank transactions.

(2) The rates determined under subsection (1) for spot transactions shall not differ by more than four and one-half *per centum* from the legal parities determined under section 73, except in the case of the rates for purchases and sales of foreign notes and coins, in which case the Board may have regard to the additional costs of, or incidental to, such transactions. [§ 8, Law 10 of 1978.]

(3) The rates determined under subsection (1) for transactions other than spot transactions shall not differ from the corresponding rates for spot transactions, except in so far as is necessary to reimburse the bank for the additional costs, expenses, or risks of each type of transaction.

(4) The Central Bank shall not accept any commission or impose any charge of any description in respect of the purchase or sale of foreign exchange, except telegraphic or other costs actually incurred in connexion with such purchase or sale.

(5) The provisions of subsections (2) and (3) shall not apply at any time during which the sales of foreign exchange by the Central Bank are restricted under section 72.

Loans to and from foreign institutions, &c.

75. (1) The Central Bank may grant loans to, or take loans from, any institution of any description referred to in paragraphs (c), (d) and (e) of subsection (2) of section 71 and may engage in such other transactions with such institutions as are expedient or desirable in the public interest and are appropriate having regard to the character of the bank as a Central Bank.

The Central Bank may act as agent or correspondent of any such institution other than a foreign commercial bank.

(2) Any loan taken as provided in subsection (1) may be secured by gold or other assets held by the Central Bank.

PART II—REGULATION OF FOREIGN EXCHANGE OPERATIONS OF COMMERCIAL BANKS

Rates applicable to purchases and sales of exchange by commercial banks. [§8, Law 10 of 1978.]

76. (1) The Monetary Board shall determine the minimum rate at which commercial banks may buy spot exchange and the maximum rate at which they may sell spot exchange. Where the Governor has certified the legal parity of a currency in accordance with section 73, the maximum and minimum exchange rates established for such currency shall not differ from such parity by more than four and one-half *per centum*.

(2) No commercial bank shall buy spot exchange at any rate below the minimum rate determined under subsection (1) or sell spot exchange at any rate exceeding the maximum rate so determined; and no commercial bank shall in respect of any purchase or sale of such exchange accept any commission or impose any charge of any description except telegraphic or other costs actually incurred in connexion with such purchase or sale.

(3) No commercial bank shall carry out any transaction in exchange, not being a spot transaction, at any rate which differs from the rate determined under subsection (1) for a spot transaction—

(a) by a margin greater than is reasonable having regard to the additional costs, expenses or risks of the transaction; or

(b) by such margin, if any, as may be prescribed in that behalf by the Monetary Board.

(4) The preceding provisions of this section shall not apply at any time during which the sales of foreign exchange by the Central Bank are suspended or restricted under section 72.

76A. (1) Where the Governor is of opinion that it is inexpedient to determine and certify, in accordance with section 73, the parities with respect to the Sri Lanka rupee of foreign currencies ordinarily required for the international transactions of Sri Lanka, he may, in lieu of determining and certifying such parities under that section, determine the rates at which the Central Bank may buy and sell spot foreign exchange.

Exchange rates for Central Bank and commercial bank transactions where parities of foreign currencies are not determined. [§ 2. Law 16 of 1977.]

(2) Where the Governor determines, under subsection (1), the rates at which the Central Bank may buy and sell spot foreign exchange, the provisions of sections 73, 74 and 76 shall cease to have any force or effect in law, and the following provisions shall apply upon such determination :—

(a) Such determination may be limited to such foreign currencies as the Governor may deem appropriate.

(b) The rates determined under subsection (1) shall not apply in the case of the purchases and sales of foreign notes and coins, in which case the Central Bank may have regard to the additional costs of, or incidental to, such purchases and sales.

(c) The rates for transactions other than spot transactions shall not differ from the rates determined under

subsection (1), except in so far as it is necessary to reimburse the Central Bank for the additional costs, expenses or risks of each type of transaction.

- (d) The Central Bank shall not accept any commission or impose any charge of any description in respect of the purchase or sale of foreign exchange, except the telegraphic or other costs actually incurred in connexion with such purchase or sale.
- (e) It shall be competent for the Governor to authorize, in writing, any officer by name or by office, to vary from time to time within such limits as may be specified by the Governor, the rates determined by the Governor under subsection (1).
- (f) Where the Governor makes no determination under subsection (1) with respect to any particular foreign currency, the Central Bank may buy and sell such currency at a rate calculated on the basis of the exchange rate for that currency in the international markets in relation to any foreign currency with respect to which the Governor has made a determination under subsection (1).
- (g) (i) Where the Governor determines under subsection (1), the rates at which the Central Bank may buy and sell spot foreign exchange, he may also determine the minimum rate at which any commercial bank may buy spot exchange and the maximum rate at which any commercial bank may sell spot exchange.
- (ii) In any case where the Central Bank buys or sells any currency in the exercise of the authority granted by paragraph (f) any officer authorized in that behalf by the Governor by name or by office, may determine the minimum rate at which any commercial bank may buy spot exchange and the maximum rate at which any commercial bank may sell spot exchange.
- (iii) The provisions of paragraph (e) shall, *mutatis mutandis*, apply to, and in relation to, the minimum and maximum rates determined under this paragraph.
- (h) Where no determination is made under paragraph (g) with respect to any particular foreign currency, a commercial bank may buy, sell or carry out any transaction in such currency at rates calculated on the basis of the exchange rates for that currency in the international markets.
- (i) Where a determination is made under paragraph (g), as to the minimum and the maximum rates at which commercial banks may buy and sell spot exchange—
- (i) no commercial bank shall buy spot exchange at any rate below the minimum rate determined under that paragraph or sell spot exchange at any rate exceeding the maximum rate so determined; and no commercial bank shall in respect of the purchase or sale of such exchange accept any commission or impose any charge of any description except telegraphic or other costs actually incurred in connexion with such purchase or sale, and
- (ii) no commercial bank shall carry out any transaction in exchange, not being a spot transaction, at any rate which differs from the rates determined under paragraph (g) by a margin greater than is reasonable having regard to the additional costs, expenses or risks of the transaction, or

by such margin, if any, as may be prescribed in that behalf by the Governor.

currencies in which they operate. The board shall allow to such banks a reasonable period of time in which to comply with any such direction.

(f) A determination under paragraph (g), as to minimum and maximum rates shall have no application during any period in which the Monetary Board decides, under section 72, to suspend or restrict the sales of foreign exchange by the Central Bank.

(2) Any direction under subsection (1) shall be made applicable to all commercial banks without discrimination:

Provided, however, that the Monetary Board may give such a direction to any particular commercial bank in any case where, in the opinion of the board, such action is necessary in order to protect against possible loss, depositors and other creditors of the bank who are citizens of Sri Lanka or companies or associations controlled by citizens of Sri Lanka.

Control of foreign exchange holdings of commercial banks.

77. (1) In order more effectively to control the use and disposition of the foreign exchange resources of Sri Lanka or in order to promote the domestic investment of the resources of commercial banks, the Monetary Board may from time to time fix, or prescribe the manner of determination of, the maximum amount of the working balances which commercial banks may hold in foreign currencies generally or in any specified foreign currency or currencies, and may from time to time require such banks to sell to the Central Bank all or any specified part of the surpluses in excess of such maximum amount.

79. (1) Any revaluation profits realized or any revaluation losses incurred by banking institutions on their net assets and liabilities in foreign currencies freely convertible by the Central Bank, whether directly or indirectly, into special drawing rights or such other common denominator prescribed by the International Monetary Fund or into foreign currencies freely usable in foreign transactions and arising from changes in the par value of the Sri Lanka rupee or in the legal parities or in the Central Bank's exchange rates, of such currencies with respect to the Sri Lanka rupee, shall be assumed in their entirety by the Central Bank and shall be debited or credited accordingly.

Revaluation profits and losses on holdings of foreign exchange by banking institutions. [§ 8, Law 10 of 1978.]

(2) The Monetary Board may, having regard to the special needs of any particular commercial bank, permit that bank to hold working balances in any specified foreign currency in excess of the maximum amount fixed or determined for such currency under subsection (1).

(3) In ascertaining whether the working balances of any commercial bank in any foreign currency are in excess of the maximum amount fixed or determined as hereinbefore provided, there may be deducted from such balances the net liabilities of that bank in currencies into which the first-mentioned currency is freely convertible.

(2) (a) If the Monetary Board so declares, the provisions of subsection (1) shall apply in relation to revaluation profits realized or revaluation losses incurred by banking institutions on their net assets or liabilities in any specified foreign currency which is not freely convertible by the Central Bank, whether directly or indirectly, into gold.

Requirements regarding currency positions of commercial banks.

78. (1) The Monetary Board may direct that the proportion which the assets in Sri Lanka rupees to commercial banks in Sri Lanka bear to the liabilities in Sri Lanka rupees of such banks shall not be less than such proportion as the Monetary Board may prescribe, or may direct such banks to maintain a balanced position between their assets and liabilities in any currency or

(b) Any such declaration shall have effect until it is revoked by the board. Notice of the date on which any such declaration will be revoked shall be given to banking institutions not less than eight days before the proposed date of revocation.

(c) During the period commencing on the date of the notice referred to in paragraph (b) and ending on the date of

revocation of the declaration to which it relates, every banking institution shall comply with such directions, if any, as may be given by the Monetary Board for the purpose of preventing banking institutions from increasing their holdings of the currency to which the declaration relates.

is actually endangering, or threatening to endanger, the domestic or international stability of the Sri Lanka rupee, it shall be the duty of the board to take such action as is appropriate under section 64 or section 68.

(§ 3, Law 16 of 1977.]

(3) Where in consequence of a determination made under subsection (1) of section 76A, the provisions of sections 73, 74 and 76 cease to be of any force or effect, the provisions of subsections (1) and (2) of this section shall also cease to be of any force or effect, and accordingly, the Central Bank shall not assume any revaluation profits realized or revaluation losses incurred by any banking institution.

Information on exchange operations.

80. (1) Every commercial bank shall, as soon as may be after the close of business at the end of such period as may be prescribed by the Monetary Board, make a report to the Central Bank setting out the volume and composition of its purchases and sales of foreign exchange during that period, and shall furnish such additional information as the Central Bank may require with reference to such purchases and sales and to the movements of its accounts in foreign currencies.

(2) The Monetary Board may also require any other person to make reports to the Central Bank at specified times or intervals as to all transactions or operations in gold, in any shape or form, and in foreign exchange.

(3) Every report under this section shall be in such of the appropriate forms as the Monetary Board may prescribe for the purpose.

(4) The Director of Bank Supervision may make such inspection or examination of the books and accounts kept by any commercial bank or other person as he may deem necessary for the purpose of verifying the accuracy of any statement set out in any report made by such commercial bank or person.

Capital movements.

81. Whenever there is in progress an inward or outward movement of capital which in the opinion of the Monetary Board

PART HI—CREDIT OPERATIONS WITH BANKING INSTITUTIONS

82. (1) The Central Bank shall exercise the authority conferred by this Part of this Act to carry out the national monetary policy by regulating the supply, availability, cost, and character of credit and by providing the banking system with liquid funds in times of need.

Principles governing credit operations.

(2) If the Monetary Board determines that it is necessary so to do by reason that, in the opinion of the board, there is in progress, or has occurred, an expansion of the money supply that represents a threat to the domestic or international monetary stability of Sri Lanka, the board shall direct the suspension of the grant of credit by the Central Bank to banking institutions, except when the board, having regard to the special circumstances, by unanimous decision approves the grant of credit.

83. (1) Subject to the principles stated in section 82 of this Act, the Central Bank may ordinarily transact with commercial banks and the National Savings Bank, credit operations of any description set out hereunder:—

Types of operations normally authorized. [§ 88, 30 of 1971.]

(a) *Commercial credits.*—The Central Bank may discount, rediscount, buy and sell bills, acceptances, promissory notes, and other credit instruments with maturities of not more than 180 days from the date of their discount, rediscount, or acquisition by the Central Bank and resulting from transactions related to—

- (i) the importation, exportation, purchase, or sale of readily saleable goods and products, or their transportation within Sri Lanka; or
- (ii) the storage of non-perishable goods and products which are duly insured and deposited

under conditions assuring their preservation, in authorized bonded warehouses or in other places approved by the Monetary Board.

(b) *Production credits.*—The Central Bank may discount, rediscount, buy and sell bills, acceptances, promissory notes, and other credit instruments having maturities of not more than 270 days from the date of their discount, rediscount, or acquisition by the Central Bank and resulting from transactions related to the production, manufacture, or processing of agricultural, animal, mineral, or industrial products.

(c) *Advances.*—The Central Bank may grant loans or advances for any fixed period not exceeding 180 days upon promissory notes secured by the pledge with the bank of—

- (i) gold coins or bullion; or
- (ii) negotiable Treasury Bills, promissory notes, debentures, bonds, or other negotiable securities of the Government; or
- (iii) securities issued by the Central Bank itself or other credit instruments of banking institutions operating in Sri Lanka and approved by the Monetary Board; or
- (iv) credit instruments referred to in paragraph (a) of this subsection; or
- (v) credit instruments referred to in paragraph (b) of this subsection.

Notwithstanding anything in the preceding provisions of this paragraph, a loan or advance secured by the pledge of any credit instrument referred to in paragraph (b) of this subsection may be for a period not exceeding 270 days.

(2) Except in such circumstances and subject to such conditions as the Monetary Board may determine, the Central Bank shall not grant to any commercial bank or to the National Savings Bank, any loan or advance upon the security of the pledge of any instrument referred to in paragraph (c) of subsection (1) in any case where such instrument is held by such commercial bank or the National Savings Bank as security for the repayment to it of the amount due upon any overdraft account. [§ 88,30 of 1971.]

84. Whenever, in the opinion of the Monetary Board, a deflationary situation exists which requires special relaxation of normal maturities applying to Central Bank credit operations, the board may determine that credits may be granted by the bank on instruments referred to in paragraph (a) or paragraph (b) of section 83 (1) having a maturity of a period longer than the period specified in those paragraphs but not exceeding one year, and may authorize loans or advances to be granted under paragraph (c) of that section for any period not exceeding one year. Extension of maturities.

85. (1) In special circumstances in which the Monetary Board considers it necessary to promote or facilitate lending operations or particular classes of such operations by banking institutions which make loans upon mortgages, whether of movable or of immovable property, the Central Bank may grant loans or advances to any such institution against promissory notes given by such institution subject to and in accordance with the following conditions:— Loans to mortgage institutions.

(a) that the loan or advance is repayable within a period not exceeding one year;

(b) that the repayment to the Central Bank of the loan or advance is secured by the assignment to the bank by way of pledge—

- (i) of debts falling due for payment within the same period to the institution by its borrowers, and

- (ii) of the mortgages given as security for the payment of such debts to the institution;
- (c) that the borrowers from whom such debts are due to the institution are not in default or arrears; and
- (d) that the total amount of the loan or advance by the Central Bank must not exceed fifty *per centum* of the total amount of the debts which are so assigned to it.

(2) The Central Bank may make advances to any institution referred to in subsection (1) upon the terms and conditions mentioned in section 83 (1).

(3) Loans or advances shall not be made under subsection (1) by the Central Bank at any time when the board is of opinion that the grant thereof would cause or aggravate inflationary tendencies.

Emergency loans and advances.

86. (1) In periods of emergency or of imminent financial panic which directly threaten monetary and banking stability, the Central Bank may grant to banking institutions, and may renew, extraordinary loans or advances secured by any assets which are defined as acceptable for the purpose by the Monetary Board by unanimous decision.

(2) A banking institution to which an extraordinary loan or advance is granted under subsection (1) shall not, while the loan or advance is outstanding, expand the total volume of its loans and investments except with the prior approval of the Monetary Board.

Interest and discount rates.

87. The Monetary Board shall fix the interest and discount rates to be charged by the Central Bank on its credit operations in accordance with the character and term of each such operation ; and the board shall, in so doing, have regard to the soundness of credit conditions, the needs of the market, and the general requirements of the national monetary policy.

General conditions as to grant of credit facilities.

88. The Monetary Board may prescribe the conditions subject to which credit facilities of the Central Bank will be

available to banking institutions, including conditions relating to the rates of interest charged by such institutions, to the purposes for which their loans in general are destined, and to any other matter affecting or connected with the credit policy of such institutions.

PART UIA—MEDIUM AND LONG TERM CREDIT OPERATIONS WITH CREDIT INSTITUTIONS (§ 67, 11 of 1963]

88A. (I) With the object of granting financial accommodation to any credit institution in respect of lending operations carried out by such institution for any productive purpose, the Central Bank may, from time to time, grant, out of the Fund, any loan or advance to such institution against a promissory note given by such institution subject to and in accordance with the following conditions :—

Loans or advances to credit institutions. [§ 67, 11 of 1963.]

(a) that the loan or advance is repayable within such period not exceeding fifteen years as may be determined by the bank;

(b) that the repayment to the Central Bank of the loan or advance is secured by the assignment to the bank by way of pledge of debts owing to such institution by its borrowers in respect of such purpose or purposes; and

[§ 2,21 of 1968-]

(c) such other conditions including the rate of interest to be charged by the Bank on such loan or advance, as may be determined by the Monetary Board.

Such assignment is in this Part of this Act referred to as an " assignment by way of pledge ".

(2) The Monetary Board may prescribe the conditions subject to which loans or advances will be available out of the Fund to credit institutions, including conditions relating to the rates of interest charged by such institutions, to the purposes for which their loans in general are destined, and to any other matters affecting or connected with the credit policy of such institutions.

(3) An assignment by way of pledge to the Central Bank under this Part of this Act shall be effected by an instrument which shall be substantially in the following form;—

Form of Assignment by way of pledge to the Central Bank of Ceylon under section 88A of the Monetary Law Act

We, in terms of section 88A of the Monetary Law Act, do hereby assign to the Central Bank of Ceylon by way of pledge, the debts owing to us, particulars whereof are set forth in the Schedule hereto, as security or further security for the repayment to the Central Bank of Ceylon of a loan/advance of Rs granted to us by the Bank repayable with interest at % per annum.

[§ 2, 21 of 1968.]

• Delete whichever is inapplicable.

[§ 2, 21 of 1968.]

SCHEDULE

<i>Amount of debt</i>	<i>Borrower's name and address</i>	<i>Date</i>	<i>Notary</i>
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(4) The Central Bank shall, on the execution of an assignment by way of pledge under this Part of this Act, have a first charge on the debts assigned.

[§ 2, 21 of 1968.]

(5) The provisions of this Part of this Act shall have effect notwithstanding anything to the contrary in any other provisions of this Act.

Instrument of assignment by way of pledge to the Central Bank to be free of stamp duty. [§67, 11 of 1963.]

88B. No duty shall be chargeable or payable under the Stamp Ordinance* on or in respect of any instrument of assignment by way of pledge to the Central Bank under this Part of this Act, and accordingly, for the purposes of that Ordinance, such instrument shall be deemed to be exempt from such duty.

Instrument of assignment by way of pledge to the Central Bank need not be registered under the Registration of Documents Ordinance. [§67, 11 of 1963.]

88C. No instrument of assignment by way of pledge to the Central Bank under this Part of this Act shall require registration under the Registration of Documents Ordinance, and accordingly any such instrument shall be deemed not to be void by reason only of its not being so registered.

*See also the Stamp Duty Act, No. 43 of 1982.

88D. No assignment by way of pledge shall require execution before a licensed notary public and witnesses as provided by section 2 of the Prevention of Frauds Ordinance, and accordingly any such assignment shall be deemed not to be void by reason only of its not being so executed.

Notarial execution not required in the case of assignments by way of pledge. [§ 67, 11 of 1963.]

88E (1) The Central Bank may establish, maintain, manage, and control at the bank, a Fund to be called the Medium and Long Term Credit Fund (in this Part of this Act referred to as the " Fund ").

Medium and Long Term Credit Fund. [§ 67, 11 of 1963.]

(2) (a) The Monetary Board may, from time to time, transfer to the Fund, out of the reserves of the bank, such sums of money as it may deem necessary to enable the bank to discharge its functions under this Part of this Act.

[§ 3, 21 of 1968.]

(b) The bank may pay to the Fund the amounts of loans granted to the bank by international financial institutions.

(3) The Central Bank shall pay out of the Fund—

(a) the amounts of all loans and advances granted by the bank to credit institutions under this Part of this Act;

(b) all sums of money representing other liabilities incurred by the bank in the discharge of its functions under this Part of this Act;

(c) all sums of money which the bank may, from time to time, decide to retransfer from the Fund to the reserves of the bank; and

(d) all sums of money due to international financial institutions in repayment of loans granted to the bank by such international financial institutions if the amounts of such loans had been paid into the Fund.

[§ 3, 21 of 1968.]

(4) The Central Bank shall, in addition to the sums of money referred to in subsection (2), pay into the Fund all sums of money paid to or recovered by the bank in repayment of the loan or advances granted by the bank to credit institutions under this Part of this Act.

[§ 3, 21 of 1968.]

Interpretation.
[§ 67, 11 of
1963.]

88F. In this Part of this Act,—

(a) "credit institution" means any banking institution as defined in subsection (1) of section 127 of this Act and includes the Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act; and

(b) "productive purpose" means any such purpose connected with or relating to the promotion or development of agriculture, industry, trade, commerce or business, as may be determined, from time to time, by the Monetary Board.

This Part of
this Act to
prevail over
other written
law.
[§67, 11 of
1963.]

88G. The provisions of this Part of this Act shall have effect notwithstanding anything to the contrary in the provisions of any other written law, and accordingly in the event of any conflict or inconsistency between the provisions of this Part of this Act and the provisions of such other written law, the provisions of this Part of this Act shall prevail over the provisions of such other written law.

PART IV—CREDIT OPERATIONS WITH
THE GOVERNMENT

Provisional
advances to the
Government.
89. The Central Bank may make direct provisional advances to the Government to finance expenditures authorized to be incurred out of the Consolidated Fund :

Provided that every such advance shall be repayable within a period not exceeding six months, and the total amount of such advances outstanding at any time shall not exceed ten *per centum* of the estimated revenue of the Government for the financial year in which they are made.

PART V—OPEN-MARKET OPERATIONS

Principles
governing
open-market
operations.

90. (1) The Central Bank shall so exercise the authority conferred by this Part of this Act to conduct open-market operations as to secure any of the following purposes, that is to say:—

(a) to increase the liquidity or stabilize the values of the securities referred to in section 91 in order thereby to promote private investment in such

securities; and to prevent or moderate sharp fluctuations in the quotations of such securities, so, however, as not to alter fundamentally movements in the market resulting from basic changes in the pattern or level of interest rates;

(b) to increase or decrease the supply, availability, and cost of money, in accordance with the national monetary policy as determined by the Monetary Board.

(2) In conducting open-market operations in Government securities, the Central Bank shall have regard to the need for maintaining adequate holdings of short-term securities in order to enable the bank more readily to contract its credit if such contraction becomes necessary.

(3) If the Monetary Board determines that it is necessary so to do by reason that, in the opinion of the board, there is in progress, or has occurred, an expansion of the money supply or of bank reserves that represents a threat to the domestic or international monetary stability of Sri Lanka, the board shall take action to secure—

(a) that purchases of rupee securities in the open market by the Central Bank are suspended, except in special circumstances where the board by unanimous decision determines that such purchases are necessary in the public interest; and

(b) that sales of rupee securities are transacted in the open market by the bank to such extent as market conditions permit.

91. (1) In order to carry out the purposes of this Part the Central Bank is hereby authorized—

Authority of
Central Bank
to transact
open-market
operations.

(a) to purchase and sell in the open market securities issued by the Government or securities fully guaranteed by the Government; and

(b) to issue, place, buy, and sell freely negotiable securities of the bank itself.

(2) The power conferred on the Central Bank by the preceding provisions of this section shall be deemed to include the power to purchase and sell Government securities which are denominated in foreign currencies.

Conditions as to issue of securities by Central Bank.

92. (1) Securities issued by the Central Bank shall be on such terms and conditions and in such form as may be determined by the Monetary Board.

(2) Any security issued by the Central Bank which is purchased or redeemed by the bank shall not be included among its assets and shall be immediately retired and cancelled.

PART VI—REGULATION OF THE RESERVES OF COMMERCIAL BANKS

Reserve requirements.

93. (1) The Monetary Board shall, in order to limit the volume of money created by the credit operations of the banking system, require commercial banks operating in Sri Lanka to maintain reserves against their deposit liabilities, and shall for such purpose define the classes of deposit liabilities against which reserves shall be held.

(2) The reserves required to be held by any commercial bank shall be proportional to the volume of its deposit liabilities and shall ordinarily take the form of rupee deposits in the Central Bank:

Provided that the Monetary Board may in its discretion permit the maintenance of any part of the required reserves in the form of assets other than rupee deposits in the Central Bank.

Monetary Board to prescribe reserve ratios.

94. (1) The Monetary Board shall prescribe, and may from time to time modify, the reserve ratios applicable to each class of deposit liabilities. The ratios so prescribed shall not be less than five *per centum* or more than twenty *per centum* in the case of time and savings deposits, and shall not be less than ten *per centum* or more than forty *per centum* in the case of demand deposits and unused balances of overdrafts allowed.

(2) Any increase of the reserve ratio which is to be applicable in respect of any existing liability shall be made by the board in a gradual manner and shall not exceed four percentage points in any one period of thirty days. The board shall, except in extraordinary circumstances, endeavour to give the commercial banks at least fourteen days' notice of the date on which any such increase is to become effective.

95. (1) Notwithstanding anything in section 94, the Monetary Board may, during periods of inflation or when inflation is anticipated, prescribe reserve ratios not exceeding one hundred *per centum* in respect of the amount by which any commercial bank's deposit liabilities of any class may, after the date on which notice is given to that bank of the fixing of the new reserve ratio, exceed the amount of such deposit liabilities of that bank on that date.

Fixing of special high ratios in time of inflation.

(2) In any case where any commercial bank is required, by reason of the exercise of the powers conferred on the Monetary Board by subsection (1), to maintain a minimum reserve against any class of deposit liabilities of an amount exceeding the maximum amount specified in section 94 (1) for that class of deposit liabilities, the Central Bank shall pay to that bank interest on the amount in excess at a rate not higher than the Central Bank's lowest discount rate for the time being in operation.

96. The required reserves of each commercial bank shall be calculated weekly on the basis of the amount, at the close of business on such day of each week as may be prescribed by the Monetary Board, of its deposit liabilities against which reserves are required to be maintained.

Computation of required reserves.

In the computation of the required reserves of a commercial bank, its principal office in Sri Lanka and all its branches and agencies in Sri Lanka shall be considered together as one unit.

97. (1) Whenever the reserves of any commercial bank are below the required reserves computed in the manner provided in section 96, the bank shall, within such time as may be prescribed by the Monetary Board, pay to the Central Bank interest on

Consequences of reserve deficiencies.

the amount of the deficiency at such rate not exceeding one-thirtieth of one *per centum* per day as may be so prescribed.

(2) In any case where any bank fails more or less continuously to maintain the required reserves, the Monetary Board may make order—

- (a) prohibiting or restricting the making of new loans or investments by that bank; and
- (b) prohibiting the application of the whole or any specified part of the net profits of that bank for the purpose of the payment of a dividend to its shareholders.

101. (1) The Monetary Board may from time to time by order—

- (a) prohibit commercial banks from increasing the amount of their loans and investments; or
- (b) fix limits to the rate at which the amount of loans and investments may be increased within specified periods:

Provided, however, that nothing in any such order shall be deemed to require any commercial bank to reduce the amount of its loans and investments below the amount outstanding at the date of the order.

(2) An order under subsection (1) may be made applicable to all the loans and investments of each commercial bank or any specified class or classes of such loans and investments so, however, that every such order shall be applicable to all banks uniformly and without discrimination.

Limitation of loans and investments of commercial banks.

Clearance and settlement.

98. (1) The Central Bank shall provide facilities for clearance transactions among commercial banks operating in Sri Lanka.

(2) The deposit reserves maintained by commercial banks in the Central Bank under the preceding provisions of this Part shall serve as a basis for the clearance of cheques and the settlement of balances among such banks in accordance with such rules as may be made in that behalf by the Monetary Board.

102. The Monetary Board may from time to time by order prescribe the minimum ratios which the capital and surplus of commercial banks shall bear to the total volume of their assets or to any specified categories of such assets.

Minimum capital ratios.

PART VII—ADDITIONAL REGULATION OF CREDIT OPERATIONS OF BANKING INSTITUTIONS

Principles governing additional regulation.

99. The powers conferred on the Monetary Board by this Part of this Act shall be so exercised as to regulate the supply, availability, cost and character of bank credit in accordance with the national monetary policy as determined by the board, and to ensure that bank credit is not granted for speculative purposes, or other purposes, prejudicial to the public interest.

103. The Monetary Board may by order direct that letters of credit shall not be opened by commercial banks unless such letters are covered by minimum margins of such kind, amount, or proportion as may be prescribed by the board; different margins may be so prescribed for different classes of transactions to be financed by means of letters of credit.

Margin requirements against letters of credit.

Maturities of bank loans and security therefor.

100. The Monetary Board may from time to time by order prescribe the maximum permissible maturities for loans and investments made by commercial banks after the order comes into force and the nature and amount of the security to be permitted or required for various types of credit operations.

104. (1) The Monetary Board may from-time to time make order—

- (a) fixing the maximum rates of interest which commercial banks may pay upon various classes of deposits; or
- (b) fixing the maximum rates of interest which commercial banks may charge for different types of loans or other credit operations.

Fixing of interest rates, commissions and charges.

(2) Subject as hereinafter provided, the maximum rate of interest fixed by order under subsection (1) shall apply in relation to any deposit, or to any loan or credit operation, as the case may be, completed before the date on which the order comes into force:

Provided, however, that nothing in any such order—

- (a) shall apply in relation to any interest accrued before that date ; or
- (b) shall require or be deemed to require the reduction of the rate of interest payable upon any deposit completed before that date if such reduction would constitute a breach of the contract or agreement relating to such deposit.

(3) For the purposes of preventing evasion of any order made under subsection (1), the Monetary Board may from time to time prescribe the maximum rates which may be paid to or charged by commercial banks in the form of commissions, discounts, fees or other payments whatsoever.

(2) The Central Bank may, in addition to exercising the functions mentioned in subsection (1), act as agent of the Government for the purposes of any matter or transaction if it is authorized so to do by the Minister in charge of the subject of Finance after consultation with the Monetary Board.

107. (1) The Central Bank shall be the official depository of the Government and of agencies or institutions referred to in subsection (I) of section 106 :

Official depository of the Government.

Provided, however, that the Monetary Board may authorize one or more commercial banks operating in Sri Lanka to accept Government deposits, subject to such rules and regulations as the board may prescribe.

(2) The Monetary Board shall advise the Government regarding the distribution of official deposits between the Central Bank and commercial banks and the effects of such distribution on monetary conditions in Sri Lanka.

(3) The bank shall not pay interest on deposits of the Government or of agencies or institutions referred to in subsection (1).

108. (1) The Central Bank may act as agent, or for the account, of the Government or of any of the agencies or institutions referred to in subsection (1) of section 106, in guaranteeing, insuring, or participating in the loans, or any category thereof, of banking institutions operating in Sri Lanka.

Loan guarantees and loan insurance.

(2) The Central Bank may give guarantees in favour of the Government or of any of the agencies or institutions referred to in subsection (1) of section 106.

108A. (1) The Central Bank may, subject to such directions as may from time to time be made by the Monetary Board, guarantee loans, advances or other accommodation granted to small-scale enterprises by credit institutions operating in Sri Lanka.

Guarantee of loans to small-scale enterprises. [§ 10, Law 37 of 1974.]

(2) Where the Central Bank has prior to the date of coming into operation of this section and acting as agent, or for the

Conditions of eligibility of credit instruments for discount, &c., by Central Bank.

105. The Monetary Board may declare that credit instruments held by banking institutions will not be accepted for discount or rediscount by, or advances from, the Central Bank, if the interest rates charged by such institutions in respect of the loans or other credit operations to which such instruments relate exceed the interest or rediscount rates of the Central Bank by more than such percentage or margin as may from time to time be prescribed by the board.

CHAPTER VI

THE CENTRAL BANK As FISCAL AGENT, BANKER, AND FINANCIAL ADVISER OF THE GOVERNMENT

Central Bank to be fiscal agent and banker of the Government.

106. (1) The Central Bank shall act as the fiscal agent and banker of the Government and of agencies or institutions acting on behalf of the Government, whether established by any written law or otherwise.

account, of the Government, guaranteed under section 108 any loans, advances or other accommodation granted by credit institutions to small-scale industrial enterprises, such guarantee shall, with effect from such date, be deemed to be a guarantee given by the Central Bank on its own account.

(3) In this section " credit institution " means any banking institution as defined in subsection (1) of section 127 of this Act, and includes—

- (a) the Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act; and
- (b) any such society registered under the Co-operative Societies Law and carrying on banking business of any kind as is approved for the purposes of this section by the Monetary Board.

Other institutions as agents of Central Bank.

109. In the performance of its functions as fiscal agent and banker of the Government, the Central Bank may engage the services of banks or other institutions in places, whether in Sri Lanka or abroad, where the Central Bank does not have offices or agencies adequately equipped to perform such functions.

Remuneration for services.

110. The Central Bank shall not ordinarily collect any commissions, fees, or other charges for services which it renders to the Government or to any agencies or institutions referred to in subsection (1) of section 106:

Provided, however, that the Monetary Board may, in special cases, conclude an agreement with the Minister in charge of the subject of Finance providing for reimbursement for services the cost of which the bank is unable to bear.

Representation with foreign Governments, agencies, and international institutions.

111. The Central Bank may represent the Government of Sri Lanka in any dealings, negotiations, or transactions with the International Monetary Fund and shall carry such accounts as may result from Sri Lanka's membership in, or operations with, the fund. The Central Bank may also be

authorized by the Government to represent it in dealings, negotiations, and transactions with foreign Governments, institutions, or agencies, or with the International Bank for Reconstruction and Development, or other international financial institutions and agencies.

112. The issue of securities of the Government or of any of the agencies or institutions referred to in subsection (1) of section 106 shall be made through the Central Bank, which shall act as agent, and for the account, of the Government or of such agency or institution :

Issue of Government securities

Provided, however, that except in the case of Treasury Bills, for which the Central Bank may make direct tenders, the bank shall not subscribe to any issue of such securities or agree to purchase the unsubscribed portion of any such issue.

113. The Central Bank shall, as agent of the Government, be responsible for the management of the public debt

Management of the public debt.

114. No new loan shall be raised and no new issue of stock or debentures shall be made by the Government or by any agency or institution referred to in subsection (1) of section 106, whether in pursuance of authority conferred by any written law or otherwise, unless the advice of the Monetary Board has first been obtained upon the monetary implications of the proposed loan or issue.

Advice on Government credit operations.

115. The Monetary Board may from time to time make recommendations to the Minister in charge of the subject of Finance or to any agency or institution referred to in subsection (1) of section 106, as to the measures and policies which should be adopted by such agency or institution for the purposes of co-ordinating its policy with the policies of the board; and where any such recommendations are made to the Minister, the Minister or any other authority or person may, if empowered so to do by any such other written law as may be applicable, make or issue such orders or directions or take such other action as may be necessary for the purpose of giving effect to such recommendations.

Recommendations as to policy, &c, of Government agencies or institutions.

Monetary policy and fiscal policy. [§11, Law 37 of 1974.]

116. (1) On or before the fifteenth day of September in each year the Monetary Board shall submit to the Minister in charge of the subject of Finance for use in preparation of the budget speech a confidential report describing and analysing the monetary situation in Sri Lanka and the current monetary policy of the board, and examining the effect of the current fiscal policy of the Government upon the ability of the Central Bank to achieve the objects specified in section 5.

(2) In the event of any difference of opinion between the Minister in charge of the subject of Finance and the Monetary Board as to whether the monetary policy of the board is directed to the greatest advantage of the people of Sri Lanka, the Minister in charge of the subject of Finance and the board shall endeavour to reach agreement. If the Minister in charge of the subject of Finance and the board are unable to reach agreement, the Minister in charge of the subject of Finance may inform the board that the Government accepts responsibility for the adoption by the board of a policy in accordance with the opinion of the Government and direct that such a policy be adopted by the board. Where a direction is so given by the Minister in charge of the subject of Finance, the board shall carry out that direction.

Transfer and use of dormant funds in commercial banks. [§ 12, Law 37 of 1974.]

116A. (1) Where an account with any commercial bank has lain dormant, that is to say, there has been no withdrawal from, or deposit into, such account, or the pass book relating to such account has not been presented for examination and insertion of interest, or there has been no confirmation in writing of the balance amount lying to the credit of such account, as the case may be, for a period exceeding ten years, the moneys lying to the credit of such account together with interest accrued, if any, shall, if the Monetary Board so directs, be transferred, notwithstanding anything in any other law, by such commercial bank to a special account in the Central Bank.

For the purposes of this subsection—

(a) any fixed deposit or any term deposit made with any commercial bank from which there has been no

withdrawal, for a period exceeding ten years from the date of expiry of the period or term for which such deposit was originally made, shall be deemed to be an account with such commercial bank which has lain dormant for a period exceeding ten years;

(b) any deposit made with any commercial bank, being a deposit repayable after notice, from which there has been no withdrawal, for a period exceeding ten years from the date on which such deposit was originally made, shall be deemed to be an account with such commercial bank which has lain dormant for a period exceeding ten years; and

(c) any amount payable by any commercial bank on any draft, mail transfer, pay order or other similar document, payment of which has not been demanded by the person entitled to make such demand, for a period exceeding ten years from the earliest day on which such demand could have been made, shall be deemed to be an account with such commercial bank which has lain dormant for a period exceeding ten years.

(2) Any person who furnishes proof to the satisfaction of the Central Bank that moneys lying to the credit of an account which was in his name or in the name of a person from whom he derives title, have been transferred to a special account in the Central Bank under subsection (1) shall, subject to such terms, conditions or restrictions as are imposed in respect of such moneys by or under any written law, be entitled to the repayment of such moneys by the Central Bank together with the interest payable on such moneys up to the date of such repayment in accordance with such rates and conditions as are applicable to the account to the credit of which such moneys were lying before they were transferred to the special account in the Central Bank.

(3) Any moneys transferred to a special account under subsection (1) may be utilized for such purposes as may be determined by

the Monetary Board after consultation with the Minister in charge of the subject of Finance.

CHAPTER VII

GENERAL

Business which Central Bank may not transact

117. Save as otherwise expressly provided in this Act, the Central Bank shall not

- (a) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking except such interest as it may in any way acquire in the course of the satisfaction of any of its claims:

Provided that all such interests shall be disposed of at the earliest possible opportunity; or

- (b) purchase the shares of any other banking institution or of any company, or grant loans or advances upon the security of any such shares; or
- (c) grant loans or advances on the mortgage of, or otherwise on the security of, immovable property or documents of title relating thereto.

Exemption from income tax, import duty, and stamp duty.

118. Notwithstanding anything in any other written law—

- (a) the Monetary Board shall be exempt from the payment of income tax and profits tax upon the income or profits of the Central Bank;
- (b) all goods of any description imported or purchased out of bond by the board for the purposes of the Central Bank shall be exempt from customs duty; and
- (c) the Monetary Board shall be exempt from the payment of stamp duty on any instrument executed by, or on behalf of, or in favour of the Monetary Board or the Central Bank in cases where, but for this exemption, the Monetary Board would be liable to pay the duty chargeable in respect of such instrument.

119. All acts done at any meeting of the Monetary Board shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of any member thereof or that any such member was disqualified, be as valid as if every such member had been duly appointed and duly qualified.

120. Every member of the Monetary Board and every officer or servant of the Central Bank shall be deemed to be a public servant within the meaning and for the purposes of Chapter IX of the Penal Code.

121. Notwithstanding anything in any written or other law, no banking institution shall be liable or subject to any action or proceedings in any court in respect of any loss or damage suffered or incurred or alleged to have been suffered or incurred by any person by reason of any act or thing done or omitted to be done by such institution for the purpose of carrying out or complying with any provision of this Act or any rule, regulation, order, direction or requirement made or given under this Act.

121A. No institution shall, except with the written approval of the Monetary Board, be established or maintained by or under a name which contains the word "bank", or the word "banker", or the word "banking", unless it is a banking institution within the meaning of this Act.

121B. Except with the prior approval in writing of the Minister in charge of the subject of Finance—

- (1) no commercial bank shall be established in Sri Lanka;
- (2) no commercial bank shall open any branch, agency or office thereof, in any part of Sri Lanka; and
- (3) no commercial bank shall acquire the business of another commercial bank or of any branch of another commercial bank.

122. (1) Any person who contravenes or fails to comply with any provisions of this Act or any rule, regulation, order, direction or requirement made or given thereunder shall be guilty of an offence under this Act.

Acts of Monetary Board valid notwithstanding subsequent discovery of disqualification.

Officers and servants to be deemed public servants for purposes of Chapter IX of Penal Code.

Protection for banking institutions.

Prohibition of use of words "bank", "banker" and "banking" in names of institutions other than banking institutions. [§ 13, Law 37 of 1974.]

No commercial bank to be established, no branch of a commercial bank to be opened, and no commercial bank to acquire business of another commercial bank, except with prior approval of Minister of Finance. [§ 13, Law 37 of 1974.]

Offences and penalties.

(2) Every person who is guilty of an offence by reason of the contravention of or failure to comply with section 30, or section 32 (2), or section 45, or section 46 or section 50 or any rule, regulation, order, direction, or requirement made or given under section 30, or section 79 (2) (c), or section 101 or section 102 shall be liable—

- (a) on conviction after summary trial before a Magistrate to imprisonment of either description for a term not exceeding six months or to a fine not exceeding two thousand five hundred rupees, or to both such imprisonment and such fine; or
- (b) on conviction before the High Court to imprisonment of either description for a term not exceeding three years or to a fine not exceeding ten thousand rupees, or to both such imprisonment and such fine.

[§3,14 of 1979.]

(2A) Every person who is guilty of an offence by reason of the contravention of subsection (1) or subsection (2) of section 58A shall be liable on conviction after summary trial before a Magistrate to a fine not exceeding three thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment. A Magistrate may, on conviction of any person for an offence under subsection (1) or subsection (2) of section 58A, make order that any coin in respect of which the offence was committed or any metal or other article derived therefrom be forfeited to the State.

[§ 3, 14 of 1979.]

(3) Every person who is guilty of an offence for which no punishment is prescribed by subsection (2) or subsection (2A) 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 one month, or to both such fine and imprisonment.

(4) Any person who attempts to commit, or does any act preparatory to the

commission of, any offence under this Act shall be deemed to be guilty of such offence.

123. Where the person convicted of an offence under this Act is a body corporate, every person who at the time of the commission of the offence was a director or an officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to avoid the commission of such offence.

Offences by corporations.

124. Nothing in the Companies Ordinance* shall apply to or in relation to the Central Bank or the Monetary Board.

Exclusion of application of companies Ordinance

125. In the event of any conflict or inconsistency between the provisions of this Act and the provisions of any other written law by or under which any banking institution is constituted or established, the provisions of this Act shall prevail,

Provision for conflict with other written law.

126. The provisions of this Act shall be in addition to, and not in substitution or derogation of the provisions of the Defence (Finance) Regulations, Defence (Finance No. 2) Regulations, Defence (Finance No. 3) Regulations and Defence (Securities) Regulations.

Defence (Finance) Regulations, &c.

127. (1) In this Act, unless the context otherwise requires—

Interpretation.

" appointed date " means the 28th day of August, 1950;

" banking institution " means—

- (a) any commercial bank ;
- (b) any agency or institution acting on behalf of the Government (whether established by any written law or otherwise) which makes loans, advances or investments or accepts deposits of money from the public; and
- (c) any other person or body of persons declared by the Minister in charge of the

* Repealed and replaced by the Companies Act, No. 17 of 1982.

subject of Finance, by Order published in the Gazette, to be a banking institution for the purposes of this Act;

" commercial bank " means any person or body of persons, corporate or unincorporate, which carries on in Sri Lanka the business of accepting from the public, or of creating, demand deposits, but does not include the Central Bank;

" current international transactions " means transactions which are not for the purpose of transferring capital, and includes, without limitation—

- (i) all payments due in connexion with foreign trade, other current business, including services, and normal short-term banking and credit facilities;
- (ii) payments due as interest on loans and as net income from other investments;
- (iii) payments, of amounts not exceeding such maxima as may be fixed by the Monetary Board, for amortisation of loans or for depreciation of direct investments; and
- (iv) remittances, of amounts not exceeding such maxima as may be fixed by the Monetary Board, for family living expenses;

" currency ", " demand deposits " and " money supply " have the meanings assigned to those expressions by sections 48, 60 and 62 respectively.

(2) For the purposes of this Act, any question which may arise as to whether any agency or institution is an agency or institution acting on behalf of the Government shall be referred to the President for decision; and such decision shall be final.

* Repealed by Act No, 58 of 1949.

CHAPTER VIII

TRANSITIONAL PROVISIONS

128. (1) The Central Bank is hereby empowered to issue any currency notes or Ceylon coins printed or minted under the authority of the Board of Commissioners of Currency and remaining unissued on the appointed date. Validity of currency in circulation, &c.

(2) All currency notes and Ceylon coins issued or deemed to have been issued under the Currency Ordinance, No. 21 of 1941*, prior to the appointed date and in circulation on that date (including any such notes or coins which have ceased to be legal tender and have not been surrendered to the Board of Commissioners of Currency), and all currency notes and coins issued by the Central Bank under subsection (1) shall be deemed for all purposes to be currency notes and coins issued by the Central Bank under this Act and to be liabilities of the Central Bank; and the provisions of this Act shall apply accordingly to and in relation to such currency notes and coins in like manner as they apply to and in relation to currency notes and coins issued under this Act.

129. (1) Where any person in the service of the Government of Sri Lanka and holding a post declared to be pensionable under the Minutes on Pensions (hereinafter referred to as a " pensionable public officer ") is appointed to be a temporary officer of the Central Bank, he shall 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. Appointment of pensionable public officers to posts in Central Bank.

(2) Where a pensionable public officer is appointed to be a permanent officer of the Central Bank on or before the appointed date, he shall be deemed, for the purposes of the Minutes on Pensions, to continue to hold a post declared to be pensionable under those Minutes so long as he is in the employ of the bank, and shall be eligible for the grant of a pension as though his service under the bank were service under the Government, and the Minister in charge of the subject of Public Administration may grant such pension in accordance with those Minutes.

(3) Where a pensionable public officer, whether or not he is an officer to whom subsection (1) applies, is appointed to be a permanent officer of the Central Bank after the appointed date, the Minister in charge of the subject of Public Administration may, by Notification published in the Gazette, declare that the post in the service of the bank to which such officer is appointed shall, while it is held by such officer, be deemed, for the purposes of the Minutes on Pensions, to be a pensionable post in the service of the Government; and upon the publication of any such Notification, the officer referred to therein shall be eligible for the grant of a pension as though his service under the bank were service under the Government, and the Minister in charge of the subject of Public Administration may grant such pension in accordance with the Minutes on Pensions.

(4) Where a person in the employ of the Central Bank is eligible, under the preceding provisions of this section, for the grant of a pension in accordance with the Minutes on Pensions, he shall, notwithstanding anything in the Widows' and Orphans' Pension Fund Ordinance, be deemed, so long as he remains in such employ, to be a public officer within the meaning, and for the purposes of the application, of that Ordinance.

130. (1) In respect of every such officer in the employ of the Central Bank as is eligible, under subsection (2) or subsection (3) of section 129, for the grant of a pension in accordance with the Minutes on Pensions and is deemed, under subsection (4) of that section, to be a public officer within the meaning, and for the purposes of the application, of the Widows' and Orphans' Pension Fund Ordinance, the bank shall contribute out of the funds of the bank to the Consolidated Fund, in respect of every complete month during which that officer is in the employ of the bank—

- (a) such sum not exceeding twenty-two *per centum* of the highest monthly salary received by that officer in his substantive post in the service of the Government or the bank as the Minister in charge of the subject of Public Administration may from time to time determine, and
- (b) a sum equivalent to three *per centum* of the salary of that officer for that month.

(2) In subsection (1) " salary " means the emoluments of the pensionable appointment held by the officer exclusive of allowances other than personal allowances.

(3) The Central Bank shall pay the contributions under subsection (1) annually to the Treasury on or before such date as may be fixed by the Deputy Secretary to the Treasury.

Contributions by Central Bank in respect of pensionable public officers appointed to posts in the bank.

CHAPTER 467

MUSLIM LIBRARY

Law No. 36 of 1978. A LAW TO INCORPORATE THE MUSLIM LIBRARY.

[11th August, 1978.]

Short title. 1. This Law may be cited as the Muslim Library (Incorporation) Law.

Incorporation of the Muslim Library. 2. From and after the date of commencement of this Law, such and so many persons as now are members of the Muslim Library (hereinafter referred to as "the Library") 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 Muslim Library", (hereinafter referred to as "the Corporation") and by that name may sue and be sued in all Courts, with full power and authority to have and to use a common seal and change and 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 spread the virtues of Islam and its culture;
(b) to promote the religious, spiritual and cultural welfare of Muslims;
(c) to maintain a free Library and Reading Room open to the public;
(d) to organize lectures and seminars on Islam and Islamic religious practices for the purpose of educating Muslims and others ; and
(e) to do all such other acts and things as are incidental or conducive to the attainment of the above objects or any of them.

General powers of the Corporation. 4. The Corporation shall have the power to do, perform and execute all such acts, matters and' things whatsoever as are

necessary or desirable for the promotion and furtherance of the objects of the Corporation or any one of them including the power to open, operate and close bank accounts, to borrow or raise moneys with or without security, and to engage, employ and dismiss personnel required for the carrying out of the objects of the Corporation.

5. (1) The affairs of the Corporation shall, subject to the rules in force for the time being of the Corporation, be administered by an Executive Committee consisting of the office-bearers and such other persons as may be provided for in such rules and elected in accordance therewith.

Management of the affairs of the Corporation.

(2) The first Executive Committee of the Corporation shall be the Executive Committee of the Library holding office on the date of commencement of this Law.

6. (1) It shall be lawful for the Corporation from time to time at any annual or special general meeting of the members and by the votes of at least two-thirds of the members present and voting, to make such rules as are not inconsistent with the principles and provisions of this Law for the management of the affairs of the Corporation and the accomplishment of its objects. Such rules when made may, at a like meeting and in like manner, be altered, added to, amended or rescinded.

Rules of the Corporation.

(2) The rules of the Library 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 and may be altered, added to, amended, rescinded or replaced by rules made under this Law-

MUSLIM LIBRARY

[Cap. 467

(3) The members of the Corporation shall be subject to the rules of the Corporation. sell, mortgage, lease, exchange, or otherwise dispose of the same.

Debts due by and payable to the Corporation.

7. All debts and liabilities of the Library existing on the date of commencement of this Law shall be paid by the Corporation and all debts due to and subscriptions and contributions payable to the Library shall be paid to the Corporation.

9. The seal of the Corporation shall not be affixed to any instrument whatsoever except in the presence of two members of the Executive Committee, one of whom shall be the President or in his absence a Vice-President, who shall sign their names on the instrument in token of their presence, and such signing shall be independent of the signing of any person as a witness.

How seal of the Corporation is to be affixed.

Corporation may hold property, movable and immovable.

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

10. Nothing in this Law contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Law, and others claiming by, from, or under them.

Saving of the rights of the Republic, and others.

**MINISTER OF LOCAL GOVERNMENT
(DELEGATION OF POWERS)**

[Cap. 580]

CHAPTER 580

**MINISTER OF LOCAL GOVERNMENT
(DELEGATION OF POWERS)**

Act
No. 31 of 1970

AN ACT TO ENABLE THE MINISTER OF LOCAL GOVERNMENT TO DELEGATE SOME OF HIS POWERS, FUNCTIONS AND DUTIES UNDER CERTAIN ENACTMENTS TO CERTAIN OFFICERS; AND TO MAKE PROVISION FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[24th December, 1970.]

Short title.

1. This Act may be cited as the Minister of Local Government (Delegation of Powers) Act.

(2) Any delegation made and published in the Gaz-ette under subsection (1) may, at any time, and in like manner, be revoked by the Minister.

Delegation of powers, duties and functions.

2. (1) The Minister may, by Notification published in the Gazette, delegate to the Secretary to the Ministry or to the Commissioner of Local Government any of the powers, duties or functions vested in or imposed or conferred upon such Minister by such of the provisions of written law as are set out in the Schedule hereto.

3. In section 2—

Interpretation.

(a) "Minister" means the Minister in charge of the subject of Local Government;

(b) "Secretary to the Ministry" means the Secretary to the Ministry charged with the subject of Local Government.

SCHEDULE

- (a) The provisions of section 188 (1)(l) of the Municipal Councils Ordinance.
- (b) The provisions of section 36 (e) (ii) of the Urban Councils Ordinance.
- (c) The provisions of section 130 (1) (b) of the Urban Councils Ordinance.
- (d) The provisions of section 159 (1)(f) of the Urban Councils Ordinance.
- (e) The provisions of section 159 (1) (g) of the Urban Councils Ordinance.
- (f) The provisions of section 171 of the Urban Councils Ordinance.
- (g) The provisions of section 35 (f) (ii) of the Town Councils Ordinance.
- (h) The provisions of section 129 (1) (b) of the Town Councils Ordinance.
- (i) The provisions of section 158 (1) (e) of the Town Councils Ordinance.
- (j) The provisions of section 158 (1)(f) of the Town Councils Ordinance.
- (k) The provisions of section 170 of the Town Councils Ordinance.
- (l) The provisions of section 36 (1) (i) of the Village Councils Ordinance.
- (m) The provisions of section 36(1) (t) of the Village Councils Ordinance.

***MINISTER OF LOCAL GOVERNMENT
(DELEGATION OF POWERS)***

- (n)* The provisions of section 36 (1) (v) of the Village Councils Ordinance.
- (o)* The provisions of section 36(1)(w) of the Village Councils Ordinance.
- (p)* The provisions of section 36e (2) of the Village Councils Ordinance.
- (q)* The provisions of section 36B (3) of the Village Councils Ordinance.
- (r)* The provisions of section 40F of the Village Councils Ordinance.
- (s)* The provisions of section 46 (2) of the Village Councils Ordinance.
- (t)* The provisions of section 49 (1) (b) of the Village Councils Ordinance.
- (u)* The provisions of section 19 (2) of the Local Government Service Law.
- (v)* The provisions of section 9(1) of the Housing and Town Improvement Ordinance.
- (w)* The provisions of section 7 (5) of the Butchers Ordinance.
- (x)* The provisions of section 8 (3) of the Butchers Ordinance.
- (y)* The provisions of section 9 (4) of the Butchers Ordinance.

CHAPTER 191

MANUFACTURE OF MATCHES (REGULATION)

Act
No. 6 of 1963.

AN ACT TO MAKE PROVISION FOR THE REGULATION AND CONTROL OF THE
MANUFACTURE: AND SAIF OF MATCHES.

[1st December, 1963.]

- Short title. **1.** This Act may be cited as the Manufacture of Matches (Regulation) Act.
- Compulsory use of banderols. **2.** No person shall sell or offer for sale any matches manufactured in Sri Lanka unless such matches are contained in boxes and unless there is securely affixed to every box of matches so sold or offered for sale a banderol issued by and purchased from the Director.
- Manufacturer's duties regarding banderols, &c- **3.** (1) Every manufacturer of matches shall cause a banderol issued by and purchased from the Director to be affixed to each box containing matches manufactured by him in such a manner as to prevent the box being opened in the ordinary way without first breaking the banderol.
- (2) Regulations may be made in respect of the issue and sale, by the Director, of banderols.
- (3) The Minister may from time to time by notification published in the Gazette determine the price to be paid for the banderols issued by the Director.
- Standards of matches to be determined. **4.** (1) The Minister may from time to time, by notification published in the Gazette, determine the standards to which every manufacture of matches shall conform in respect of matches, splints, veneers and boxes.
- (2) No manufacturer of matches shall sell or offer for sale matches, splints, veneers or boxes which do not conform to the standards determined under subsection (1).
- Maximum prices. **5.** (1) The Minister may from time to time by notification published in the Gazette determine the maximum price in respect of matches manufactured in Sri Lanka.
- (2) No person shall sell or offer for sale any matches at a price in excess of the price so determined by the Minister.
- 6.** (1) The Director may by notice in writing call upon any person engaged or suspected to be engaged in the manufacture, import or supply of matches, splints, veneers or boxes to furnish before a specified date such information as may be required for the purposes of this Act. Obligation to furnish information.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), information may be called for in respect of all or any of the following matters :—
- (a) the actual or potential output of any manufactory in Sri Lanka at which matches, splints, veneers or boxes are manufactured;
 - (b) the quantities of such articles kept in stock or stored in any manufactory or other place or premises;
 - (c) the cost of manufacture in Sri Lanka of any such articles and the prices at which and the quantities in which such articles are sold, imported or supplied.
- 7.** The Director or any person authorized by him in writing may, at any reasonable time during the day, enter any manufactory, store, godown, shed, land or premises for the purpose of—
- (a) inspecting, examining or taking an account or stock of any matches, splints, veneers or boxes,
 - (b) verifying any information furnished under this Act. Inspection of manufactories, &c.

Regulations as to the manufacture of matches.

8. Regulations may be made in respect of the maximum or minimum annual output of matches which any one manufacturer is permitted to produce.

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.

Regulations.

9. (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 for which regulations are authorized by this Act to be made. Such regulations may provide for the safety, health, wages and conditions of labour of persons employed in the manufacture of matches.

(2) In any proceedings in which it is in question whether or not there has been conformity with the standards determined under section 4 in respect of any matches, splints, veneers or boxes, a certificate on behalf of any institute or from a person, approved in writing by the Minister, to the effect that there has been no such conformity shall be received in all courts of law as conclusive evidence of the lack of such conformity in respect of such matches, splints, veneers or boxes.

(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) The person who issues a certificate under subsection (2) shall not be examined or cross-examined in any court of law with respect to such certificate.

(3) Every regulation made by the Minister shall, as soon as is 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.

11. (1) Any person who forges or counterfeits or uses, sells, offers for sale, disposes of, or has in his possession, knowing or having reason to believe the same to be forged or counterfeited, any banderol purporting to be issued by the Director shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment. Forgery, &c. of banderols.

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

Offences.

10. (1) Any person who—

- (a) contravenes any provision of this Act or of any regulation made thereunder; or
- (b) omits or refuses to supply any information required by the Director under this Act; or
- (c) supplies to the Director any information which he knows to be false; or
- (d) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred upon him by this Act,

(2) In any proceedings in which the genuineness of any banderol is in question, a certificate under the hand of the Government Printer to the effect that such banderol is spurious shall be received in all courts of law as conclusive evidence of the spuriousness of such banderol.

(3) The Government Printer who issues a certificate under subsection (2) shall not be examined or cross-examined with respect to any such certificate.

shall be guilty of an offence, and shall, on conviction after summary trial before a

12. Any person who attempts or conspires to commit an offence under this Act shall be deemed to be guilty of that offence and shall be liable to a like penalty as if he had committed that offence. Attempt and conspiracy.

Offences by bodies of persons.

13. Where an offence under this Act is committed by a body of persons—

- (a) if that body of persons is a body corporate, every director and officer of that body corporate, and
- (b) if that 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 knowledge and that he had exercised all due diligence to prevent the commission of the offence.

Liability of proprietor.

14. (1) Where any person, hereinafter referred to as an "employee", who is employed by any other person hereinafter referred to as the "proprietor", engaged in the manufacture, import, export, supply or sale of matches, splints, veneers or boxes is, by reason of any act or omission arising out of and in the course of such employment, guilty of an offence under this Act or any regulation made thereunder, then the proprietor, or where the proprietor is out of the Island the person for the time being having control of the business, shall in addition to the employee be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of the offence.

(2) Such proprietor, manager or person having control of the business shall be liable to be proceeded against for the offence together with such employee or before or after the conviction of such employee and shall be subject to the like punishment as if he were such employee.

15. (1) In this Act, unless the context interpretation. otherwise requires—

" box" means the container in which matches are put up for sale and includes a paper envelope or any other container;

" Director" means the Director of Development of the Development " Division of the Ministry and includes any Deputy or Assistant Director of Development;

" manufactory" means the premises in which matches, splints, veneers or boxes are manufactured and includes any warehouse used for the storage of such articles ;

" regulation " means a regulation made by the Minister under this Act;

" splints " means undipped splints such as are commonly used for making matches;

" veneers" means veneers such as are ordinarily used for making boxes.

CHAPTER 113

MEDICAL PRACTITIONERS, PHARMACISTS, MIDWIVES AND NURSES

Ordinances AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE CEYLON MEDICAL COLLEGE, THE CEYLON MEDICAL COUNCIL, MEDICAL PRACTITIONERS, DENTISTS, MIDWIVES. APOTHECARIES, PHARMACISTS, AND NURSES. Nos. 26 of 1927, 5 of 1930, 2 of 1933, 9 of 1933, 35 of 1938, 55 of 1938, 35 of 1939, 45 of 1941, 20 of 1942, 25 of 1946,

Acts Nos. 10 of 1949, 14 of 1949, 27 of 1949, 36 of 1949, 46 of 1949, 12 of 1952, 23 of 1954, 23 of 1955, 31 of 1961, 37 of 1961, 16 of 1965, 10 of 1979.

[5th October. 1928.]

PART I

PRELIMINARY

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

Jury service. 2. All persons registered under this Ordinance and in actual practice shall be exempt from serving on any jury.

In this section "property" shall not include any property transferred to the ownership or control of the University of Ceylon by or under the Ceylon University Ordinance ; and " affairs " shall not include any affairs of the University of Ceylon.

4. The College shall be maintained out of funds provided for the purpose by Parliament. Cost of maintenance.

PART II

THE CEYLON MEDICAL COLLEGE

College Council to manage the Medical College.

3. The Ceylon Medical College (in this Ordinance called " the College"), its property, and affairs shall be managed by the Council of the Ceylon Medical College (in this Ordinance called " the College Council") in accordance with the regulations for the time being in force under this Ordinance.

5. (1) The College Council is a body corporate by the name and style of " The Council of the Ceylon Medical College", having perpetual succession, a common seal, and power to acquire and hold land and other property, and consists of— Constitution of College Council.

(a) the person for the time being discharging the duties of the Director of Health Services ;

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

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

MEDICAL PRACTITIONERS, &c.

- (b) the person for the time being discharging the duties of Deputy Director of Health (Medical Services);
 - (c) the person for the time being discharging the duties of Professor of Medicine of the University of Ceylon* or such other person as may be nominated by the Minister in place of such Professor under subsection (2);
 - (d) the person for the time being discharging the duties of Professor of Surgery of the University of Ceylon* or such other person as may be nominated by the Minister in place of such Professor under subsection (2);
 - (e) the person for the time being discharging the duties of Professor of Anatomy of the University of Ceylon* or such other person as may be nominated by the Minister in place of such Professor under subsection (2);
 - (f) the person for the time being discharging the duties of Professor of Physiology of the University of Ceylon* or such other person as may be nominated by the Minister in place of such Professor under subsection (2);
 - (g) the person for the time being discharging the duties of Professor of Obstetrics and Gynaecology of the University of Ceylon* or such other person as may be nominated by the Minister in place of such Professor under subsection (2);
 - (A) a person nominated by the Minister out of those engaged in teaching at any Government Nurses Training School;
 - (i) a person nominated by the Minister out of those possessing the degree of Bachelor of Pharmacy or the qualification of Member of the Pharmaceutical Society or other equivalent qualification;
 - (j) a medical practitioner, nominated as aforesaid, who is neither a lecturer in the University of Ceylon* or the Ceylon Medical College, nor an officer in the service of the Government, nor in receipt of a pension from the Government.
- (2) The Minister may at any time nominate any person to be a member of the College Council in place of any Professor referred to in paragraphs (c), (d), (e), (f) and (g) respectively of subsection (1).
- (3) A nominated member of the College Council holds office for three years unless he previously resigns or his appointment is revoked by the Minister, and shall be eligible for renomination.
- (4) If any member of the College Council leaves Sri Lanka without the intention of returning thereto, or is absent from Sri Lanka for more than six consecutive months, he shall thereupon cease to be a member.
- (5) The Minister may appoint and revoke the appointment of any person to be a temporary nominated member in the place of any nominated member being temporarily absent, or ill, or unable, or unwilling to act.
6. (1) At every meeting of the College Council the Director of Health Services, or in his absence the Deputy Director of Health (Medical Services), or, in the absence of both, a member chosen by the members present or by a majority of them, shall preside as chairman.
- (2) Every question which comes before the College Council shall be decided by a majority of the votes of the members present and voting.
- (3) No question shall be decided at any such meeting unless five members at the least, besides the chairman, are present at the time of the decision.
- (4) The chairman and every member present at the meeting shall have one vote, and the chairman, in case of an equality of votes, shall have a second or casting vote.

Procedure of
College

* See footnote to section 3.

Certificates, &c.

7. (1) Subject to any regulations for the time being in force, the College Council may confer on persons who have passed the prescribed examinations and fulfilled the prescribed conditions—

(a) certificates of efficiency as midwives ;

(b) certificates of efficiency as apothecaries;

[§ 2, 16 of 1965.]

(bb) certificates of efficiency as estate apothecaries;

[§ 2, 10 of 1979.]

(bbb) diplomas of efficiency as apothecaries;

(c) certificates of efficiency as pharmacists; and

(d) certificates of efficiency as nurses.

(2) Any person on whom any diploma or certificate has been conferred under subsection (1) may be deprived of such diploma or certificate by the College Council in such circumstances and in accordance with such procedure as may be prescribed.

Fees.

8. The College Council may charge the prescribed fees (which shall be paid into the Consolidated Fund) for entrance into the College, for continuance therein, for admission to examinations, for attendance at lectures or classes, and for any diploma or certificate issued by the College Council.

Appointments.

9. (1) Where any lecturers or other teachers are necessary for the purposes of any course of study not provided by the University of Ceylon,* such lecturers or teachers may be appointed by the College Council.

Examiners may in like manner be appointed by the College Council whenever necessary.

(2) There may also be appointed such officers and servants of the College, as may be necessary.

Professors, &c., of College to be public servants.

10. Every professor, lecturer, examiner, officer or servant of the College shall be deemed to be a public servant within the meaning of section 19 of the Penal Code.

* See footnote to section 3.

11. Regulations may be made as to—

Power to make regulations.

(a) the mode and time of convening the meetings of the College Council and of transacting business thereat;

(b) the duties of professors, lecturers, examiners, officers, and servants;

(c) the previous course of instruction to be followed by candidates for the examinations of the College;

(d) the maintenance of good order and discipline among students of the College or persons attending the examinations or lectures of the College, and the exclusion from such lectures and examinations of students or persons contravening such regulations;

(e) the examinations to be passed and other conditions to be fulfilled by candidates for diplomas and certificates;

(f) the fees to be charged under this Part;

(g) the keeping of accounts of the income and expenditure of the College;

(h) generally all matters relating to the College.

PART III

THE CEYLON MEDICAL COUNCIL

12. (1) The Ceylon Medical Council (in this Ordinance called "the Medical Council") shall consist of eleven members, including the president and vice-president, to be appointed as follows, namely—

Constitution and duties of Ceylon Medical Council.

(a) the president nominated by the Minister;

(b) one member elected by the teachers of the Faculty of Medicine of the University of Ceylon ;*

(c) two members elected by the medical practitioners who are registered under the Medical Acts ;

(d) two members elected by all other medical practitioners; may be, in accordance with the provisions of this Pan.

(e) one member elected by dentists ;

(f) four members nominated by the Minister, of whom at least two members shall not be in Government employ or in receipt of a pension from Government.

(2) A vice-president shall be elected from among the members of the Medical Council, by the Medical Council-

(3) The Medical Council shall perform the duties imposed on it by this Ordinance, and may make representations to the Government on any matter connected with the medical profession in Sri Lanka.

Members of Medical Council to be medical practitioners.

13. No person shall be eligible to be a member of the Medical Council unless he is a medical practitioner or a dentist.

Tenure of office of members.

14. The members of the Medical Council shall hold office for a term of five years, but shall be eligible for re-election or renomination.

Vacation of seat by member of Medical Council.

15. A member of the Medical Council shall be deemed to have vacated his seat—

- (a) on sending his resignation in writing to the president or registrar;
- (b) on his absence without excuse sufficient in the opinion of the Medical Council from three consecutive meetings of the Medical Council;
- (c) on his absence from Sri Lanka for twelve consecutive months;
- (d) on erasure of his name from a register;
- (e) on his being declared an insolvent or bankrupt by any competent court;
- (f) on expiry of his term of office.

Filling up of vacancies.

16. When the seat of any member becomes vacant, the vacancy shall be filled up by election or nomination, as the case

17. (1) The Medical Council shall appoint a registrar, who shall act as secretary of the Medical Council and also as treasurer, unless the Medical Council shall appoint another person as treasurer. Every person so appointed shall be removable at the pleasure of the Medical Council. Registrar and other officers.

(2) The Medical Council may also employ such other persons as it may deem necessary for the purposes of this Ordinance.

(3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 19 of the Penal Code.

18. (1) Every order or decision of the Medical Council under this Ordinance shall be subject to appeal to the Minister whose decision shall be final. Appeals to Minister.

(2) The Medical Council and the registrar shall give all information which may be required by the Minister for the purposes of any such appeals.

19. Regulations may be made for all or any of the following purposes:— Power to make regulations.

- (a) the election of members to the Medical Council and of the vice-president;
- (b) the procedure at meetings of the Medical Council, including the quorum;
- (c) the appointment, suspension, removal, duties, and remuneration of officers and servants of the Medical Council ;
- (d) the keeping of the accounts of the receipts and expenses in carrying out the provisions of this Ordinance, and the auditing of such accounts.

PART IV

THE REGISTERS

20. (1) The registrar shall, in accordance with the provisions of this Registers to be kept by registrar.

Ordinance, keep the following registers substantially in the form contained in the First Schedule, namely—

- (a) a register of medical practitioners qualified to practise medicine and surgery in Sri Lanka;
- (b) a register of dentists qualified to practise dentistry and dental surgery in Sri Lanka;
- (c) a register of women qualified to practise as midwives in Sri Lanka;
- (d) a register of persons qualified to act as pharmacists in Sri Lanka; and
- (e) a register of persons qualified to practise as nurses in Sri Lanka.

(2) No person under the age of twenty-years shall be registered.

(3) No alien shall be registered except with the approval of the President on the recommendation of the Minister.

(4) The registrar shall enter in the appropriate register the name of every person who proves his claim to be registered, and shall report the name of every such person to the Medical Council at its next meeting.

(5) The registrar shall enter in a separate part of the register mentioned in paragraph (a) of subsection (1) the name of every person who proves his claim to be provisionally registered as a medical practitioner under subsection (2) of section 29, and if that person is registered thereafter as a medical practitioner under subsection (1) of that section, the registrar shall strike off the name of that person from such part of the aforesaid register as contains the names of persons provisionally registered as medical practitioners.

(5A) The registrar shall enter in a separate part of the appropriate register kept under subsection (1) the name of any person whose application for registration as a medical practitioner, dentist or nurse is allowed by the Medical Council under

section 67A and, if such person leaves Sri Lanka, shall strike off his name from the register.

(6) An applicant for registration shall deliver to the registrar the appropriate declarations required by the Schedules which shall be declared before a Justice of the Peace or a Commissioner for Oaths, and such other evidence of his right to be registered as the registrar may require.

(7) The registrar may refer any case of doubt or difficulty to the Medical Council.

(8) In this section, "alien" means a person other than a person who is a Commonwealth citizen within the meaning of the British Nationality Act, 1948.

(II & 12 Geo. vi, c. 56.)

21. If any person fraudulently procures or attempts to procure himself or any other person to be registered under this Ordinance by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, he and every person aiding or assisting him shall be guilty of an offence, and shall on conviction by the High Court be liable to imprisonment of either description for any term not exceeding two years, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

Punishment for fraudulently procuring persons to be registered.

22. The registers kept by the registrar of the Council of the Ceylon Medical College under the Medical Registration Ordinance, 1905,* and the Dentists Registration Ordinance, No. 3 of 1915,* or by the registrar of the Ceylon Medical Council under either of those Ordinances and the Ceylon Medical Council Ordinance, No. 24 of 1924,* are the property of and shall be kept by the Medical Council, and shall be deemed to be kept under this Ordinance, and every person whose name is entered in any such register shall be deemed to be registered under this Ordinance.

Continuance of existing registers.

23. (1) Whenever any person registered under this Ordinance changes his residence he shall forthwith notify his new address to the registrar, who shall enter it in the register.

Change of residence.

* Repealed by Ordinance No. 26 of 1927.

[§2,37 of 1961 .]

(2) The registrar may send a letter by registered post to any registered person addressed to him according to his address in the register to inquire whether he has changed his residence, and if he does not receive an answer to such letter within six months of the sending thereof, he may erase from the register the name of such person ;

(b) an attorney-at-law or counsel to advise the Council and to act as judicial assessor.

Provided always that the same shall be restored at the request of the Medical Council.

26. (I) The registrar shall keep each register correct and up to date in accordance with this Ordinance, and shall cancel in the register the name of any person who has died.

Registrar to keep each register up to date.

Change of qualification.

24. (1) Any person registered under this Ordinance who may obtain any degree or qualification other than the degree or qualification in respect of which he is registered may cause such other degree or qualification to be inserted in the register, in addition to the degree or qualification already registered.

(2) The registrar shall, by and in accordance with the orders of the Medical Council, erase any entry from, or correct any entry in, a register when such entry is proved to the satisfaction of the Medical Council to have been fraudulently or incorrectly made, and shall enter in the register and sign the reason for every erasure or correction.

(2) The fee for insertion shall be ten rupees for each degree or qualification.

27. The registrar shall, as soon as may be after the first day of January in each year, cause a copy of each register as it exists on such first day of January to be published in the Gazette.

Publication of registers in Gazette.

Power to erase name from register and to restore any name to register.

25. (1) The Medical Council may, if it thinks fit—

(a) on any ground authorized by this Ordinance, order that the name of any person be erased from a register or, in lieu of such erasure, may order that he be suspended from the rights, privileges, and immunities conferred upon him by resgistration during the period specified in the order;

28. (I) In all proceedings, whether civil or criminal—

Proof of contents of registers.

(b) order that the name of any person be restored to a register.

(a) any extract from or copy of a register certified by the registrar to be true shall be admissible in evidence without proof, and shall be sufficient prima facie evidence of the contents of the register;

(2) Before making an order under subsection (1) (a), the Medical Council shall give the person affected an opportunity of showing cause why the order should not be made, and for that purpose permit him to be represented or assisted by his legal adviser or advisers.

(b) a certificate by the registrar that the name of any person is or is not registered in a register or was or was not so registered at a date or during a period specified in the certificate shall be admissible in evidence, and shall be sufficient prima facie evidence of the facts stated therein.

(3) At any proceedings against a person under this section, the Medical Council may employ the services of—

(2) For the purposes of this section, no proof need be given, unless the court otherwise requires, of the signature of the registrar to any such copy, extract, or certificate, or of his appointment as registrar.

(a) an attorney-at-law or counsel to lead the evidence and present the case against that person, and

PART V

MEDICAL PRACTITIONERS

Registration as medical practitioners.

29. (1) A person shall, upon application made in that behalf to the Medical Council, be registered as a medical practitioner—

- (a) if he is of good character, and
- (b) if he—
 - (i) holds the degree of Bachelor of Medicine of the University of Ceylon* and a certificate granted by the Medical Council under section 32, or
 - (ii) is registered or qualified to be registered under the Medical Acts, or
 - (iii) holds a qualifying diploma within the meaning of the Medical Acts and a certificate granted by the Medical Council under section 32, or
 - (iv) not being qualified to be registered under any of the preceding subparagraphs,—
 - (aa) is a citizen of Sri Lanka according to the law for the time being in force relating to citizenship, and
 - (bb) holds the degree of Bachelor of Medicine or an equivalent qualification of any university or medical school of any country other than Sri Lanka which is recognized by the Medical Council for the purposes of this section, and
 - (cc) unless exempted under the provisions of subsection (2A), has passed a special examination prescribed in that behalf by the Medical Council, and
 - (dd) holds a certificate granted by the Medical Council under section 32.

[§3,16 of 1965.]

(2) For the purposes only of enabling the acquirement of such experience as is required for obtaining from the Medical Council a certificate under section 32, a person shall, upon application made in that behalf to the Medical Council, be registered provisionally as a medical practitioner—

- (a) if he is of good character, and
- (b) if he—
 - (i) holds the degree of Bachelor of Medicine of the University of Ceylon,* or
 - (ii) has passed the examination necessary for obtaining the degree of Bachelor of Medicine of the University of Ceylon* but has not obtained that degree owing to a delay on the part of that university in conferring that degree on him, or
 - (iii) holds a qualifying diploma within the meaning of the Medical Acts but has not acquired such experience as is required for becoming registered under those Acts, or
 - (iv) not being qualified to be registered under any of the preceding sub-paragraphs,—
 - (aa) is a citizen of Sri Lanka according to the law for the time being in force relating to citizenship, and
 - (bb) holds a degree of Bachelor of Medicine or an equivalent qualification of any university or medical school of any country other than Sri Lanka, which is recognized by the Medical Council for the purposes of this section, and

[§ 3,16 of 1965.]

* See footnote to section 3.

(cc) unless exempted under the provisions of subsection (2A), has passed a special examination prescribed in that behalf by the Medical Council.

(a) has been engaged in employment in a resident medical capacity for the prescribed period in one or more prescribed hospitals or institutions,

(b) has, during his employment as mentioned in paragraph (a) of this subsection, been engaged for the prescribed period in the practice of medicine and for the prescribed period in the practice of surgery, and

(c) has rendered satisfactory service while employed as aforesaid,

such Council shall grant, in the prescribed form, a certificate that such Council is so satisfied.

(2) Where a person who is provisionally registered as a medical practitioner has, during his employment as mentioned in subsection (1), been engaged in the practice of midwifery for any period not exceeding the prescribed period, such period spent in the practice of midwifery shall, for the purposes of paragraph (b) of subsection (1), be deemed to be a period spent in the practice of medicine or a period spent in the practice of surgery as he may elect.

(3) Where an applicant to the Medical Council for a certificate under this section has, during his employment as mentioned in subsection (1), been engaged in the practice of medicine and in the practice of either surgery or midwifery or both surgery and midwifery, the period of that employment shall, in order to compute the period of his practice of medicine and the period of his practice of surgery for the purposes of paragraph (b) of subsection (1), be apportioned in such manner as may be determined by the Medical Council.

(4) Where a person who is provisionally registered as a medical practitioner applies to the Medical Council for a direction under this subsection and satisfies such Council that, by reason of lasting physical disability, he will be or has-been prevented from entering upon or completing the period of experience of the practice of surgery or midwifery required for the purposes of any of the preceding provisions of this section,

(2A) Where the Medical Council is satisfied that the medical qualification on the faith of which a person applies for registration under subsection (1) or subsection (2) is of a sufficiently high standard and such qualification is obtained in a country which recognizes the degree of Bachelor of Medicine of the University of Ceylon*, the Council may exempt such person from the requirement of passing the special examination referred to in subparagraph (cc) of each of the said subsections.

(3) The fee for registration, or provisional registration, as a medical practitioner shall be fifty rupees and it shall be paid to the registrar on application for registration.

(4) A person who has paid the fee for his provisional registration as a medical practitioner shall not be required to pay any fee for his subsequent registration as a medical practitioner.

30. All medical officers of the Army, Navy, or Air Force of the United Kingdom serving in Sri Lanka on full pay shall be deemed to be duly registered medical practitioners.

31. Where a person, who is not qualified to be registered under section 29 (I), is certified, by written statement given under the hand of the Director of Health Services and lodged with the registrar, to be in the employment of the Government of Sri Lanka as a medical officer, such person shall be deemed to be a duly registered medical practitioner, while he is so employed.

32. (1) Where a person who is provisionally registered as a medical practitioner applies to the Medical Council for a certificate under this section and such Council is satisfied that he—

[§ 3, 16 of 1965.]

Medical officers of the United Kingdom Army, Navy or Air Force deemed to be registered medical practitioners.

Certain Government medical officers deemed to be registered medical practitioners.

Certificate of experience in prescribed hospitals or institutions.

* See footnote to section 3.

such Council may direct that, in lieu of the period which as aforesaid he will be or has been prevented from entering upon or in lieu of the balance of the period which as aforesaid he will be or has been prevented from completing, he may count for those purposes an equal period of experience of the practice of medicine during his employment as mentioned in subsection (1) which is in addition to the period of experience of the practice of medicine required for the purposes of paragraph (b) of subsection (1).

(5) Where a person who is provisionally registered as a medical practitioner is, in accordance with the terms of his employment in a prescribed hospital or institution, residing conveniently near that hospital or institution, his employment in that hospital or institution shall be deemed to be employment in a resident medical capacity notwithstanding that his residence is not in that hospital or institution.

33. The name of a medical practitioner may be erased from the register if, whether before or after the commencement of this Ordinance—

- (a) his name is erased from the register kept under the Medical Acts by reason of his conviction for an offence or of his having been guilty of infamous conduct in any professional respect; or
- (b) he is deprived of any diploma, degree, or certificate on the faith of which he was registered as a medical practitioner, or by virtue of which he became qualified to be registered under the Medical Acts ; or
- (c) he is convicted of an offence which shows him to be unfit to practise as a medical practitioner; or ,
- (d) he is convicted under section 49 (c), (d), or (e) of the Births and Deaths Registration Ordinance* or under section 68 (1) (c), (d), or (e) of the Births and Deaths Registration Act, or, while acting as a registrar under that Ordinance or as a registrar or

deputy registrar under that Act, of dishonestly registering or aiding or abetting the registration of a false cause of death ; or

(e) he is guilty of infamous conduct in any professional respect.

34. In any written law, whether passed or made before or after the commencement of this Ordinance, the words "legally qualified medical practitioner" or "duly qualified medical practitioner" or "registered medical practitioner" or any words importing a person recognized by law as a practitioner in medicine or surgery shall be construed as meaning a medical practitioner registered under this Ordinance.

Meaning of "legally qualified medical practitioner", &c.

35. Every medical practitioner shall be entitled to practise medicine and surgery in Sri Lanka, and to demand and recover reasonable charges for medical or surgical aid rendered by such person, and the costs of medicines and surgical appliances supplied by him in the course of his practice.

Registered medical practitioners entitled to practise medicine and surgery.

36. No person, other than a medical practitioner, shall be entitled to recover any charge in any court of law for any medical or surgical advice, attendance, or for the performance of any operation as a medical practitioner, or for any medicine which he shall have prescribed and supplied.

Right to recover charges for medical or surgical advice, &c.

37. No certificate signed after the 1st day of April, 1906, and required by any written law to be signed by a physician, surgeon, or any other medical or surgical practitioner, shall be valid unless the person signing it is a medical practitioner.

Medical certificates.

38. No person, not being a medical practitioner, shall—

Restrictions on practice by unregistered persons.

- (a) take or use any name, title, or addition implying a qualification to practise medicine or surgery by modern scientific methods, or implying or tending to the belief that he is a medical practitioner registered under this Ordinance, or by any act or omission intentionally cause or permit any person to

When may medical practitioner's name be erased from register.

* Repeated by Act No. 17 of 1951.

believe that he is a registered medical practitioner, and to act upon such belief; or

(b) except as mentioned in section 41, practise for gain, or profess to practise, or publish his name as practising medicine or surgery.

Rights of persons provisionally registered as medical practitioners.

39. Every person provisionally registered as a medical practitioner under subsection (2) of section 29 shall have the right—

(a) to practise medicine, surgery and midwifery for the purposes only of such employment as is mentioned in subsection (1) of section 32,

(b) to recover in a court of law such remuneration or charges as he may be entitled to under the terms of such employment,

(c) to sign and issue any such certificate as is referred to in section 37 in respect of any patient treated by him in the course of such employment, and

(d) to use any name or title implying a qualification to practise medicine, surgery and midwifery,

but shall not be entitled to any of the other rights, privileges or immunities of a medical practitioner registered under subsection (1) of section 29.

Saving for Government apothecaries, estate apothecaries and estate dispensers,

***41.** (1) Nothing in this Ordinance shall make it unlawful for any of the following persons to practise medicine and surgery for gain or prevent him from recovering his charges for services rendered or medicine or goods supplied by him in the course of his practice, namely—

(a) any Government apothecary actually employed in the public service as an apothecary and for the time being in charge of a dispensary or hospital;

(b) any Government apothecary who, having, before the 1st day of April, 1906, qualified to enter Government

service as an apothecary, has, whether before or after the commencement of this Ordinance, retired from the Government service;

(c) any Government apothecary who is registered under subsection (2) of this section as being entitled to practise medicine and surgery, and whose name is for the time being in the register maintained under that subsection;

(cc) any estate apothecary or apothecary who is registered under subsection (2A) of this section as being entitled to practise medicine and surgery and whose name is for the time being in the register mentioned under that subsection;

(ccc) any Government apothecary who is registered under subsection (2B) of this section as being entitled to practise medicine and surgery and whose name is for the time being in the register maintained under that subsection;

(d) any estate apothecary or estate dispenser appointed by a superintendent to an estate or group of estates with the approval of the Director of Health Services, but only during the time he is actually so employed, provided that the practice of such estate apothecary or estate dispenser shall be limited to the estate or group of estates to which he is so appointed.

(2) Any Government apothecary, whether he is in the service of the Government or has ceased to be in such service, may, on production of a certificate from the Director of Health Services to the effect that he—

(a) has or had been employed as an apothecary in the public service for an aggregate period of at least fifteen years; and

(b) has or had within such period, served in one or more hospitals under one or more medical practitioners for an aggregate period of at least two years; and

*Section 40 is repealed by Act No. 31 of 1961.

(c) has or had performed his duties as an apothecary efficiently and satisfactorily,

be registered by the registrar, on payment of the prescribed fee, as being entitled to practise medicine and surgery.

The registrar shall maintain a register of the persons registered under this subsection and erase therefrom the name of any person ordered to be erased by the Medical Council under subsection (3) of this section.

A certificate under this subsection may be issued to a Government apothecary who has been guilty of misconduct if the Director of Health Services is satisfied that such apothecary has, since such misconduct, been of good conduct for such period of time as the Director considers reasonable.

For the purposes of this subsection and subsection (2A) " public service " includes service under a corporation, the capital of which is wholly or partly provided by the Government.

(2A) (a) Any estate apothecary or apothecary may, on furnishing proof to the satisfaction of the Director of Health Services that—

(i) (a) he, being an estate apothecary, has had an aggregate period of at least fifteen years of efficient and satisfactory service as an estate apothecary; or

(b) he, being an apothecary, has had an aggregate period of at least fifteen years of efficient and satisfactory service as an apothecary on an estate or on an estate and in the public service ; and

(ii) has, within that period, served in one or more hospitals under one or more medical practitioners for an aggregate period of at least two years,

be registered by the registrar on payment of the prescribed fee, as being entitled to practise medicine and surgery.

(b) The registrar shall maintain a register of the persons registered under this subsection and erase therefrom the name of any person ordered to be erased by the Medical Council under subsection (3) of this section. [§ 4, 16 of 1979.]

(2B) (a) Any Government apothecary whether he is in the service of the Government or has ceased to be in such service may, on production of a certificate from the Director of Health Services to the effect that he— [§ 3,10 of 1979.]

(i) has had an aggregate period of eight years of efficient and satisfactory service as a Government apothecary;

(ii) has, within that period, served in one or more district or provincial hospitals under one or more medical practitioners for an aggregate period of at least three years; and

(iii) holds a diploma conferred by the College Council,

be registered by the registrar on payment of the prescribed fee, as being entitled to practise medicine and surgery.

(b) The registrar shall maintain a register of persons registered under this subsection and erase therefrom the name of any person ordered to be erased by the Medical Council under subsection (3).

(3) Provided that where it is shown to the satisfaction of the Medical Council that any person being an apothecary entitled to practise medicine and surgery under subsection (1) (b) or under subsection (1) (c) or under subsection (1) (cc) or under subsection (1) (ccc) or an estate apothecary entitled to practise medicine and surgery under subsection (1) (cc) has been guilty of inefficiency or negligence in the treatment of a patient or has been guilty of conduct which shows him to be unfit to practise medicine and surgery, the Medical Council may make an order that such person be suspended from the privileges and immunities conferred on him by this section, either permanently or during the period [§ 3, 10 of 1979]

[§ 3, 10 of 1979.]

specified in the order, and, where necessary, an order that the name of any person be erased from the register of apothecaries maintained as the case may be, under subsection (2) or subsection (2A) or subsection (2B).

(4) Every order under subsection (3) shall be published in the Gazette.

Women medical missionaries.

42. The Medical Council, on being satisfied that any lady belonging or attached to any missionary or other body or society possesses the requisite knowledge and skill for the medical treatment of women and children, may grant permission to such person to practise medicine and midwifery as a woman medical missionary as regards the treatment of women and children, but not otherwise. Such permission shall not authorize the person to whom it is granted to practise medicine for gain or elsewhere than at the place or places named therein.

PART VI

DENTISTS

Qualifications for registration as dentist.

43. (1) No person shall be registered as a dentist unless he is of good character and either—

(a) is registered or qualified to be registered under the Dentists Acts ; or

(b) holds a degree or diploma in dentistry conferred or granted by the University of Ceylon.*

[§ 5, 16 of 1965.]

(1A) Notwithstanding the provisions of subsection (1), a person who is not qualified to be registered as a dentist under that subsection may, if he—

(a) is a citizen of Sri Lanka according to the law for the time being in force relating to citizenship, and

(b) holds a degree in Dentistry or Stomatology or an equivalent qualification of any university or

medical school of any country other than Sri Lanka, which is recognized by the Medical Council for the purposes of this subsection, and

(c) has passed a special examination prescribed in that behalf by the Medical Council,

be registered as a dentist:

Provided, however, that where the Medical Council is satisfied that the qualification on the faith of which a person applies for registration is of a sufficiently high standard and such qualification has been obtained in a country which recognizes the degree of dental surgery of the University of Ceylon*, the Council may exempt such person from the requirement of passing the special examination referred to in paragraph (c).

(2) The fee for registration of a dentist shall be fifty rupees payable on application to the registrar.

(3) Notwithstanding anything in this Ordinance, the following provisions shall have effect, that is to say:—

Savings for past registrations and for registration upon completion of apprenticeship, &c.

(a) Every person who, immediately prior to the 6th day of June, 1949, held a diploma as a licentiate in dental surgery or a diploma of efficiency in dentistry issued by the College Council and was registered as a dentist, shall be deemed for all the purposes of this Ordinance to be a dentist possessing the qualifications indicated in this section.

(b) Every person who, immediately prior to the date aforesaid, was qualified to be registered as a dentist by reason of his holding any diploma, certificate or degree referred to in paragraph (c) of subsection (1) of this section and was so registered, shall, for all the purposes of this Ordinance, but subject to the provisions of paragraph (e) of this subsection, be deemed to be a dentist.

* See footnote to section 3.
Repealed by section 3 of Act No. 27 of 1949.

(c) The regulations relating to the registration of dentists published in Gezette No. 8,089 of 9th November, 1934, shall continue in force for the purpose, but only for the purpose, of enabling certificates referred to in regulation 1 of those regulations to be issued in accordance therewith to persons who, prior to the 6th day of June, 1949, commenced work as assistants in all branches to a dental surgeon or surgeon dentist; and the aforesaid regulations shall so continue in force subject to the modification that, notwithstanding anything in the proviso to paragraph (c) of regulation 2 thereof, the certificate referred to in that paragraph may be entertained if the dental surgeon or surgeon dentist, to whom the person mentioned in the certificate is an assistant, sends to the registrar within one month of the 6th day of June, 1949, a notice specifying the date on which such person commenced work as such assistant.

Every person to whom a certificate is issued under regulation 1 of those regulations (as so continued in force) may - be registered as a dentist, and if so registered shall, for all the purposes of this Ordinance, but subject to the provisions of paragraph (e) of this subsection, be deemed to be a dentist.

(d) Any person who satisfies the registrar that he had, during the period of five years preceding the 6th day of June, 1949, continuously carried on the trade of a dental mechanic and makes application to the registrar before such date* as may be prescribed by the Minister for registration as a dentist may, if he passes an examination conducted by a board of examiners consisting of a dental surgeon who is a teacher of the Ceylon University and who is selected by the Dean of the

Faculty of Medicine of that University, a surgeon of the General Hospital, Colombo, nominated by the Minister, and the officer in charge of the Dental Institute, Colombo, be granted by the board a certificate that he holds the requisite knowledge and skill for practice as a dentist; and where the certificate is so granted to any person, that person may be registered as a dentist, and if so registered shall, for all the purposes of this Ordinance, but subject to the provisions of paragraph (e) of this subsection, be deemed to be a dentist.

(e) No person who, as provided in paragraphs (b), (c) or (d) of this subsection, is deemed to be a dentist, shall assume or use the title of Dental Surgeon or Surgeon Dentist.

(f) Every person who contravenes the provisions of paragraph (e) of this subsection, shall be guilty of an offence against this Ordinance.

44. All dentists of the Army, Navy, or Air Force of the United Kingdom serving in Sri Lanka on full pay shall be deemed to be duly registered as dentists.

Dentists of the United Kingdom Army, Navy or Air Force deemed to be registered dentists.

45. The name of a dentist may be erased from the register if, whether before or after the commencement of this Ordinance—

When may dentist's name be erased from register.

(a) his name is erased from the register kept under the Dentists Acts by reason of his conviction for an offence or of his having been guilty of infamous or disgraceful conduct in a professional respect; or

(b) he is deprived of any diploma, degree, or certificate, on the faith of which he was registered as a dentist or by virtue of which he became qualified to be registered under the Dentists Acts; or

* 31st December, 1953.—Gazette No. 10,418 of 27th June, 1952.
See footnote to section 3

- (c) he is convicted of an offence which shows him to be unfit to practise as a dentist; or
- (d) he is guilty of infamous conduct in any professional respect.

Meaning of "legally qualified dentist", &c.

46. In any written law, whether passed or made before or after the commencement of this Ordinance, the words "legally qualified dentist" or "duly qualified dentist" or "registered dentist" or any words importing a person recognized by law as a dentist shall be construed as meaning a dentist registered under this Ordinance.

Registered dentists entitled to practise dentistry and dental surgery.

47. Every dentist shall be entitled to practise dentistry and dental surgery in Sri Lanka, and to demand and recover reasonable charges for services rendered by him as such dentist, and the costs of medicines and surgical appliances supplied by him.

Right to recover charges for dental operation, &c.

48. No person, other than a dentist or a medical practitioner, shall be entitled to recover any charge in any court of law for any dental operation, service, work, or attendance, or for any medicine for dental treatment which he shall have prescribed and supplied.

Restrictions on practice by unregistered persons.

49. (1) No person, not being a dentist, shall-

- (a) take or use the name or title of dentist or dental surgeon or surgeon dentist or any other name, words, title, or description, either alone or in conjunction with any other word or words, implying or tending to the belief that he is entitled to practise dentistry or dental surgery; or
- (b) practise, or hold himself out whether directly or by implication as practising or as being prepared to practise dentistry.

(2) For the purposes of this Ordinance, the practice of dentistry shall be deemed to include the performance of any such operation and the giving of any such treatment, advice or attendance as is usually performed or given by dentists, and any

person who performs any operation or gives any treatment, advice or attendance on or to any person as preparatory to or for the purpose of or in connexion with the fitting, insertion, or fixing of artificial teeth shall be deemed to have practised dentistry within the meaning of this Ordinance.

(3) Nothing in this section shall operate to prevent—

(a) the practice of dentistry by a medical practitioner; or

(b) the extraction of a tooth by an apothecary where the case is urgent and no medical practitioner or dentist is available and the operation is performed without the application of any general or local anaesthetic; or

(c) the performance by a qualified dental nurse in the employment of the Government of Sri Lanka of minor dental work in any public dental service under the supervision of a dentist or a medical practitioner.

(4) A dentist shall not assume or use the title of doctor unless he is also a medical practitioner and shall not assume or use the titles of dental surgeon or surgeon dentist unless he possesses the qualifications indicated in section 43 (1):

Provided that any dentist who holds a degree entitling him to use the title "Doctor" in the country where the degree was granted, and who used such title in Ceylon on or before the 1st day of January, 1916, may continue to use such title.

50. (1) Any person who at the commencement of this Ordinance holds a special licence issued under section 20 of the Dentists Registration Ordinance, No. 3 of 1915,* shall be entitled to practise dentistry and dental surgery in the same manner as a dentist, and shall (with the necessary modifications) have the same rights and immunities and be subject to the same liabilities and penalties as a dentist:

Persons holding special licence issued under the Dentists Registration Ordinance, No. 3 of 1915.*

*Repealed by Ordinance No. 26 of 1927.

Provided that no such person shall use any other title or designation than that of " Licensed Dentist".

(2) Any such licence may be revoked by the Medical Council on any ground for which the name of a dentist can be erased from the register of dentists.

(3) The registrar shall, as soon as may be after the first day of January in each year, cause a list of all persons holding such licences on such first day of January to be published in the Gazette.

PART VII

MIDWIVES

Qualifications for registration as midwife.

51. (1) No person shall be registered as a midwife unless she is a woman of good character and either—

- (a) is certified or qualified to be certified under the Midwives Acts; or
- (b) holds a certificate of efficiency as a midwife issued by the College Council; or
- (c) holds a certificate of efficiency in midwifery issued by the Director of Health Services; or
- (d) otherwise satisfies the Medical Council that she possesses sufficient knowledge and skill for efficient practice as a midwife.

(2) The fee for registration as a midwife shall be five rupees payable to the registrar on application.

When may midwife's name be erased from register.

52. The name of a midwife may be erased from the register if—

- (a) her name is removed from the roll of midwives kept under the Midwives Acts for disobedience to any rules and regulations or for other misconduct; or
- (b) she is deprived of any diploma, degree, or certificate, on the faith of which she was registered as a midwife: or

(c) she is convicted of an offence which shows her to be unfit to practise as a midwife; or

(d) she shows such negligence or incapacity as a midwife that she cannot be safely allowed to continue to practise as such.

53. (1) Every midwife shall be entitled to designate herself as a registered midwife and to practise as a midwife. Use of title "registered midwife".

(2) No person, not being a midwife, shall take or use the name or title of registered or licensed midwife, or any name, words, title, or description implying or tending to the belief that she is a midwife registered under this Ordinance or by any act or omission intentionally cause or permit any person to believe that she is a registered midwife and to act upon such belief.

54. (1) No woman, not being a midwife or a medical practitioner, shall— Restriction on practice of midwifery by unauthorized persons.

- (a) practise for gain or profess to practise, or publish her name as practising midwifery;
- (b) attend any woman in child-birth otherwise than under the direction of a medical practitioner or in case of emergency; or
- (c) be entitled to recover any charge in any court of law for services rendered by her as a midwife.

(2) This section applies only to an area to which it is applied by regulation.

(3) A regulation under this section shall not come into operation until the date specified in the regulation, such date being not less than three months from the date of publication of the regulation in the Gazette.

55. Regulations may be made regulating and restricting the practice of midwifery by midwives, whether registered under this Ordinance or not, and providing for their proper supervision. Regulation of the practice of midwifery by midwives.

PART VIII

PHARMACISTS

Qualifications for registration as pharmacist.

56. (1) No person shall be registered as pharmacist, unless he is of good character and either—

(a) is registered or qualified to be registered under the Pharmacy Acts as a pharmaceutical chemist, or as a chemist and druggist; or

(b) serves an apprenticeship for two years in accordance with the provisions contained in the Sixth Schedule and thereafter obtains a certificate of efficiency as a pharmacist issued by the College Council; or

[§ 7, 16 of 1965.]

(c) is an apothecary; or

[§ 7, 16 of 1965.]

(d) is an estate apothecary.

[§ 7, 16 of 1965.]

(2) The fee for registration as a pharmacist shall be payable to the registrar on application for registration, and shall be twenty-five rupees for registration under subsection (1) (a) or (b) and ten rupees for registration under subsection (1) (c) or (J). But no fee shall be payable by an apothecary if he is still in the service of the Government.

(3) No medical practitioner shall be registered as a pharmacist.

(4) If any pharmacist is registered as a medical practitioner, his name shall forthwith be removed from the register of pharmacists.

When may pharmacist's name be erased from register.

57. The name of a pharmacist may be erased from the register if—

(a) his name is erased from the register of pharmaceutical chemists and chemists and druggists kept under the Pharmacy Acts by reason of his conviction for an offence ; or

(b) he is deprived of any diploma, degree, or certificate, on the faith of which he was registered as a pharmacist; or

(c) he is convicted of an offence which shows him to be unfit to practise as a pharmacist; or

(d) he shows such negligence or incapacity as a pharmacist that he cannot be safely allowed to continue to practise as such.

58. (1) No person, not being a pharmacist, shall assume or use any name, title, addition, or sign implying that he is a pharmacist, or chemist and druggist, or druggist, or dispensing chemist, or is entitled to act as a pharmacist or to dispense drugs or poisons.

Unlawful pretence to be a pharmacist.

(2) No person, not being registered as a pharmaceutical chemist under the Pharmacy Acts and as a pharmacist under this Ordinance, shall use the title of pharmaceutical chemist or pharmaceutist.

(3) Provided that a person who employs a pharmacist personally to superintend and manage the sale and dispensing of poisons may, having previously informed the registrar in writing of the name of such pharmacist, assume and use, for the purposes of his business, any title, addition, or sign which might lawfully be used by such pharmacist,

59. No person, not being a pharmacist, shall practise for gain or profess to practise or publish his name as practising pharmacy.

Restriction on practice of pharmacy by unqualified persons.

60. Every pharmacist or person entitled to use the title of pharmacist who keeps open shop for the sale or dispensing of poisons shall exhibit and keep exhibited in a conspicuous position therein a legible notice in Sinhala, Tamil and English, stating his name and qualification, and the name and qualification of every pharmacist employed therein.

Name and qualification of pharmacist to be exhibited in shop.

PART IX

NURSES

61. (1) There shall, for the purposes of this Part, be an advisory board consisting of—

Advisory board-

- (a) six persons elected in the prescribed manner by the Ceylon Nurses Association;
- (b) two medical practitioners appointed by the Minister;
- (c) two persons, not being medical practitioners or registered nurses, appointed by the Minister; and
- (d) one member of the teaching profession appointed by the Minister in charge of the subject of Higher Education.

(2) The Minister shall nominate one of the persons appointed by him under subsection (1) to be the chairman of the advisory board.

(3) It shall be the function of the advisory board to make recommendations to the Ceylon Medical Council or the College Council on such matters relating to the administration of this Part of this Ordinance as may from time to time be referred to the board for advice or as may, in the opinion of the board, require consideration by any such Council; and the Ceylon Medical Council or the College Council shall give due consideration to the recommendations of the board.

(4) Regulations may be made providing for the procedure to be followed at meetings of the advisory board. Subject to the provisions of any such regulation, the board may regulate its own procedure.

(5) Every member of the advisory board shall, unless he earlier vacates his office by resignation or revocation of appointment, hold office for a period of two years from the date of the election or appointment of such member.

62. (1) The register of nurses maintained under subsection (1) of section 20 shall be divided into separate parts as follows:—

Register of nurses to be in separate parts.

- (a) Part A shall contain the names of all persons of the female sex who satisfy the conditions of admission to the register as general nurses.
- (b) Part B shall contain the names of all persons of the male sex who satisfy the conditions of admission to the register as general nurses.
- (c) Part C shall contain the names of all persons who satisfy the conditions of admission to the register as public health nurses.
- (d) Part D shall contain the names of all persons who satisfy the prescribed conditions of admission to the register as assistant nurses.
- (e) Part E shall contain the names of all persons who comply with the conditions specified in subsection (3) of section 63.
- (f) Part F shall contain the names of all persons who, having qualified as nurses outside Sri Lanka, satisfy the Ceylon Medical Council that they possess sufficient knowledge and skill to enable them to carry on efficiently the practice of nursing.

(2) Regulations may be made providing for the maintenance of additional parts in the register of nurses, and prescribing the conditions of admission to any such additional part.

(3) The name of any person entitled to be registered in more than one part of the register may be registered accordingly.

63. (1) The conditions of admission to the register as a general nurse shall be that the applicant— Conditions of admission to register.

- (a) holds a certificate of efficiency as a nurse issued by the College Council or by the Director of Health Services; or
- (b) is certified or qualified to be certified under the Nurses Act, 1919, of the Parliament of the United Kingdom. (9 & 10 Geo. v, c. 94.)

(2) The conditions of admission to the register as a public health nurse shall be that the applicant is a female and holds the following certificates, that is to say—

- (a) a certificate of efficiency as a nurse issued by the College Council or the Director of Health Services;
- (b) a certificate of efficiency as a midwife issued by the College Council or the Director of Health Services ; and
- (c) a certificate issued by the Director of Health Services to the effect that she has had the prescribed training in public health and passed the Public Health Nursing Examination.

(3) The conditions of admission to Part E of the register shall be—

- (a) that the application for registration in Part E is made before the 30th day of September, 1949 ; and
- (b) that the Ceylon Medical Council is satisfied, upon production of two certificates in that behalf, that the applicant was actually engaged in the practice of nursing for at least one year during the period of three years ending on the date of application.

(4) Notwithstanding anything in the preceding provisions of this section, no applicant shall be registered under this Ordinance as a nurse except upon payment to the registrar of a fee of ten rupees:

Provided, however, that in the case of a person who is to be registered (whether at the same time or at different times) in more than one part of the register, the fee for registration in any second or subsequent part shall be five rupees.

64. The name of any person registered under this Ordinance as a nurse may be erased from the register of nurses—

- (a) if the name of that person is removed from the Roll of Nurses kept under the Nurses Act, 1919. of the

Parliament of the United Kingdom, for disobedience to any rules or regulations or for other misconduct; or

- (b) if that person is deprived of any diploma, degree, or certificate on the faith of which that person was registered as a nurse ; or
- (c) if that person is convicted of an offence which is punishable with imprisonment and which shows that person to be unfit to practise as a nurse; or
- (d) if that person is of a character or has been guilty of conduct unbefitting the profession of a nurse; or
- (e) if, by reason of negligence or incapacity as a nurse, that person cannot be safely allowed to continue to practise as such.

65. (1) No person, not being a registered nurse, shall— a Unlawful pretence to be a nurse, &c.

- (a) use the title of "registered nurse " or its equivalent in any other language, either alone or in combination with any other word or letters; or
- (b) use any name, title, addition, description, uniform or badge implying that that person is registered under this Ordinance as a nurse; or
- (c) use any title, uniform or badge prescribed for the use of nurses so registered.

(2) No person whose name is included in any part of the register of nurses shall use any name, title, addition, description, uniform or badge, or otherwise do any act of any kind, implying that the name of such person is also included in some other part of that register in which it is not in fact so included.

(3) No person shall, with intent to deceive, make use of any certificate of registration as a nurse which has been issued to any other person.

Erasure of names from register of nurses.

(9&10 Geo. v, c. 94.)

Restriction on practice of nursing by unregistered persons.

66. No person, not being a registered nurse, shall—

- (a) practise or profess to practise nursing for gain, or publish his or her name as practising nursing; or
- (b) be entitled to recover any charge in any court for services rendered as a nurse.

Regulation of the practice of nursing.

67. Regulations may be made restricting and regulating the practice of nursing by nurses and providing for their proper supervision.

69. Every person who attempts to commit or abets the commission of an offence against this Ordinance shall himself be guilty of the same offence. Abetment and attempts.

70. All fees imposed by this Ordinance may from time to time be increased or decreased by regulations. Fees.

71. Regulations may be made from time to time altering or adding to any of the Schedules. Variation of Schedules.

72. (1) Subject to the provisions of the following subsections, the Minister may make regulations for the purposes specified in sections 11, 19 and 55 and generally for the purpose of giving effect to the principles and provisions of this Ordinance. Regulations.

(2) Before making any regulation for any purpose specified in section 11 the Minister shall consult the College Council.

(3) Before making any regulation for any purpose specified in section 19 or section 55, the Minister shall consult the Medical Council.

(4) No regulation shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette; and upon such publication, the regulation to which the notification relates shall be as valid and effectual as though it were herein enacted.

73. For the purpose of defraying such expenses as may be incurred in the exercise of its powers and in the performance of its duties under this Ordinance, the Medical Council shall be entitled to receive— Expenses of Ordinance.

(a) all fees payable under Parts IV, V, VI, VII, VIII, and IX of this Ordinance;

(b) a sum of one thousand five hundred rupees annually from the Consolidated Fund.

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

" apothecary " means a person on whom a certificate of efficiency as an

[§ 8,16 of 1965-]

PART X

SUPPLEMENTARY

Registration as medical practitioners, dentists or nurses of certain persons not qualified under the preceding provisions of this Ordinance. [§ 3, 37 of 1961.3

67A. Notwithstanding anything in any other provision of this Ordinance, any person who is resident in Sri Lanka temporarily and who is not qualified to be registered under the preceding provisions of this Ordinance as a medical practitioner, dentist or nurse may in writing apply to the Medical Council to be registered as a medical practitioner, dentist or nurse for the period of his temporary residence in Sri Lanka, if he—

- (a) is possessed of sufficient knowledge and skill for efficient practice as a medical practitioner, dentist or nurse, and
- (b) is in Sri Lanka on the invitation of the Government or the University of Ceylon* for the purpose of practising as a medical practitioner, dentist or nurse,

and the Medical Council shall allow the application if it is satisfied that the applicant is qualified to make the application under the preceding provisions of this section.

General penalty.

68. Every person who contravenes this Ordinance or any regulation shall be guilty of an offence against this Ordinance and shall, unless otherwise expressly provided, be liable on summary conviction by a Magistrate for each offence to a fine not exceeding two hundred rupees.

*See footnote to section 3.

apothecary has been conferred by the College Council under section 7 (1)(b);

"counsel" means an attorney-at-law instructed by a registered attorney;

"dentist" means a person registered as a dentist under this Ordinance;

"Dentists Acts" means the Dentists Act, 1878 (41 & 42 Vict. c. 33), of the Parliament of the United Kingdom, and any Act amending that Act;

"dispensing" includes compounding ;

"estate apothecary" means a person on whom a certificate of efficiency as an estate apothecary has been conferred by the College Council under section 7(1) (bb);

"Medical Acts" means the Medical Act (21 & 22 Vict..c. 90) of the Parliament of the United Kingdom, and any Act amending that Act;

"medical practitioner" means a person registered as a medical practitioner under this Ordinance;

"midwife" means a woman registered as a midwife under this Ordinance ;

"Midwives Acts" means the Midwives Act, 1902 (2 Edw. 7, c. 17), of the Parliament of the United Kingdom, and any Act amending that Act;

"pharmacist" means a person registered as a pharmacist under this Ordinance;

"Pharmacy Acts" means the Pharmacy Act, 1852 (15 & 16 Vict. c. 56), of the Parliament of the United Kingdom, and any Act amending that Act;

"prescribed" means prescribed by regulation;

"registrar" means the registrar of the Ceylon Medical Council;

"register" means a register kept under the provisions of this Ordinance;

"registered nurse" means a person for the time being registered under this Ordinance as a nurse ;

"regulation" means a regulation made under this Ordinance.

[§ 8, 16 of 1965.]

[Section 20 (1).]

FIRST SCHEDULE

FORM OF REGISTER

Name	Residence	Date of Registration	Qualifications with Dates

[Section 20 (6).]

SECOND SCHEDULE

DECLARATIONS FOR REGISTRATION AS A MEDICAL PRACTITIONER

Where Applicant is registered under the Medical Acts.

I, (*name and address of applicant*), hereby declare as follows:—

1. I was on the (*date*) and still am registered as a medical practitioner under the Medical Acts as being (*state qualification, e.g.. "Fellow of the Royal College of Physicians of....."*).

2. I am the person named (*name*) in the Medical Register for the year..... at page..... entry No.....

2. I am the person named (*name*) in the certified copy now shown to me and marked A of the entry of my name in the register of the General Council of Medical Education and Registration of the United Kingdom of Great Britain and Northern Ireland (*or the Branch Council for.....*).

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

Where Applicant is qualified to be registered under the Medical Acts.

I, (*name and address of applicant*), hereby declare as follows :—

1. I am qualified to be registered as a medical practitioner under the Medical Acts by virtue of (*stale qualification, e.g.. licentiate of.....*) to which I was admitted on the (*date*).

2. I am the person named (*name*) in the (*certificate or diploma or other document conferring or evidencing his qualification*) now produced and shown to me and marked A.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

Where Applicant holds the Diploma of the Ceylon Medical College in Medicine and Surgery.

I, (*name and address of applicant*), hereby declare as follows:—

I am the person named (*name*) in the Diploma in Medicine and Surgery of the Ceylon Medical College BOW produced to me and marked A.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

Where Applicant holds a Degree of Bachelor of Medicine or equivalent qualification recognized by the Medical Council.

[§ 9, 16 of 1965.]

[Section 29, (1) (*b*) (*iv*) and (2) (*b*) (*iv*)].

I, (*name and address of applicant*), hereby declare as follows :—

I am the person named (*name*) in the (*certificate, diploma or other document conferring or evidencing the degree or other qualification*) now produced to me and marked A.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

[Section 20 (6).]

THIRD SCHEDULE

DECLARATIONS FOR REGISTRATION AS A DENTIST

Where Applicant is registered under the Dentists Acts.

I, (name and address of applicant), hereby declare as follows:—

- 1. I was on the (date) and still am registered as a dentist under the Dentists Acts as being (state qualification).
- 2. I am the person named (name) in the Dentists Register for the year..... at page..... entry No.....

Or

- 2. I am the person named (name) in the certified copy now shown to me and marked A of the entry of my name in the Dentists Register.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

Where Applicant is qualified to be registered under the Dentists Acts.

I, (name and address of applicant), hereby declare as follows :—

- 1. I am qualified to be registered as a dentist under the Dentists Acts by virtue of (state qualification, e.g., diploma of.....).

- 1. I am the person named (name) in the (certificate or diploma or other document conferring or evidencing his qualification) now produced to me and marked A.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

Where Applicant holds a Diploma in Dentistry of the Ceylon Medical College.

I, (name and address of applicant), hereby declare as follows:—

I am the person named (name) in the Diploma in Dentistry of the Ceylon Medical College now produced to me and marked A.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

Where Applicant holds a Foreign or Colonial Qualification in Dentistry.

I, (name and address of applicant), hereby declare as follows:—

- 1. On the (date) I became and still am entitled to practise in dentistry in (country) by virtue of (state qualification, e.g., diploma of.....).

- 2. I am the person named (name) in the (diploma of.....) now produced to me and marked A.

(Signature of Applicant.)

Dated this....., day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths-

Where Applicant holds a degree or other equivalent qualification recognized by the Medical Council.

[§10i 16 of 1965.]

[Section 43 (1A)]

I, (*name and address of applicant*), hereby declare as follows:—

I am the person named (*name*) in the (*certificate or diploma or other document conferring or evidencing his qualification*) now produced before me and marked A.

(*Signature of Applicant.*)

Dated this day of.....

Declared before me this..... day of.....

(*Signature of person faking the declaration.*)

Justice of the Peace or Commissioner for Oaths.

FOURTH SCHEDULE

DECLARATIONS FOR REGISTRATION AS A MIDWIFE

[Section 20 (6).]

Where Applicant is certified under the Midwives Acts.

I, (*name and address of applicant*), hereby declare as follows:—

1. I was on the (*date*) and still am a woman certified under the Midwives Acts.

2. I am the person named (*name*) in the Roll of Midwives for the year..... at page..... entry No.....

Or

2. I am the person named (*name*) in the certificate of the Central Midwives Board now produced to me and marked A.

(*Signature of Applicant.*)

Dated this..... day of.....

Declared before me this..... day of.....

(*Signature of person taking the declaration.*)

Justice of the Peace or Commissioner for Oaths.

Where Applicant is qualified to be certified under the Midwives Acts.

I, (*name and address of applicant*), hereby declare as follows:—

1. I am a woman qualified to be certified under the Midwives Acts by virtue of (*state qualification, e.g., diploma of:*).

2. I am the person named (*name*) in the (*certificate or diploma or other document conferring or evidencing her qualification*) now produced to me and marked A.

(*Signature of Applicant.*)

Dated this..... day of.....

Declared before me this..... day of.....

(*Signature of person taking the declaration.*)

Justice of the Peace or Commissioner for Oaths.

MEDICAL PRACTITIONERS, &c.

Where Applicant holds Certificate as a Midwife issued by the College Council.

I, *(name and address of applicant)*, hereby declare as follows :—

I am the person named *(name)* in the Certificate of Efficiency as a Midwife issued by the College Council now produced to me and marked A.

(Signature of Applicant.)

Dated this..... day of.....

Declared before me this..... day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

Where Applicant holds Certificate in Midwifery issued by the Director of Health Services.

I, *(name and address of applicant)*, hereby declare as follows :—

I am the person named *(name)* in the certificate in Midwifery of the Director of Health Services now produced to me and marked A.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

Where Applicant possesses no Qualification.

I, *(name and address of applicant)*, hereby declare as follows :—

1. I have practised as a midwife at *(name of place)* for the period of..... years now last past.

2- I am well known to *(names and addresses of referees)* who are prepared to testify to my knowledge and skill as a midwife.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

And

I, *(name and address)*, hereby declare as follows :—

1. I am *(stale occupation)*.

2. I know and have been well acquainted with *(name of applicant)* for the past..... years.

3. During that period, the said *(name of applicant)* has to my own personal knowledge regularly practised as a midwife at *(name of place)*. I have never heard any complaint of want of skill or negligence by the said *(name of applicant)*. She is to the best of my knowledge and belief a skilful midwife.

(Signature of Declarant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace *or* Commissioner for Oaths.

FIFTH SCHEDULE

[Section 20
(6).]

DECLARATIONS FOR REGISTRATION AS A PHARMACIST

Where Applicant is registered under the Pharmacy Acts.

I, (name and address of applicant), hereby declare as follows :—

- 1. I was on the *(date)* and still am registered under the Pharmacy Acts as a *(state whether pharmaceutical chemist or chemist and druggist)* by reason of the following qualification, namely:—
- 2. I am the person named *(name)* in the Register of Pharmaceutical Chemists and Chemists and Druggists for the year..... at page..... entry No.....

Or

- 2. I am the person named *(name)* in the certificate now produced to me and marked A of the entry of my name in the Register of Pharmaceutical Chemists and Chemists and Druggists.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths,

Where Applicant is qualified to be registered under the Pharmacy Acts.

I, (name and address of applicant), hereby declare as follows:—

- 1. I am qualified to be registered under the Pharmacy Acts as a *(state whether pharmaceutical chemist or chemist and druggist)* by virtue of *(state qualification, e.g., diploma of.....)*.
- 2. I am the person named *(name)* in the *(certificate or diploma or other document conferring or evidencing his qualification)* now produced to me and marked A.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

Where Applicant holds a Certificate as a Pharmacist issued by the College Council.

I, *(name and address of applicant)*, hereby declare as follows :—

- 1. I am the person named *(name)* in the Certificate of Efficiency as a Pharmacist issued by the College Council now produced to me and marked A.
- 2. I have during the two years ending on *(date)* served as an apprentice in pharmacy to *(name and address of master)*.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

And

I, (name and address of master), hereby declare as follows :—

1. I am a registered pharmacist carrying on business at (name of place).

1. (Name of applicant) has during the two years ending (dale) served me as an apprentice in pharmacy under the Articles of Apprenticeship dated.....

3. During the said two years, the said (applicant) has diligently and faithfully served me as such apprentice.

(Signature of Declarant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

[§ 11, 16 of 1965.]

Where Applicant holds a Certificate as an Apothecary issued by the College Council.

I, (name and address of applicant), hereby declare as follows:—

1. I am and have been since (date) an apothecary, and have since (date) until (dale) practised as an apothecary at (name of place).

1. I am the person named (name) in the certificate of the Ceylon Medical College now produced and shown to me and marked A.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

[§ 11,16 of 1965.]

Where Applicant holds a Certificate as an Estate Apothecary issued by the College Council.

I, (name and address of applicant), hereby declare as follows:—

1. I am and have been since (date) an estate apothecary, and have since (date) until (date) practised as an estate apothecary at (name of place).

2. I am the person named (name) in the certificate of the Ceylon Medical College now produced and shown to me and marked A.

(Signature of Applicant.)

Dated this.....day of.....

Declared before me this.....-day of.....

(Signature of person taking the declaration.)

Justice of the Peace or Commissioner for Oaths.

[Section 56 (1) (b).]

SIXTH SCHEDULE

APPRENTICESHIP REGULATIONS

1. An apprentice shall produce duly executed articles of apprenticeship to the registrar, who shall endorse thereon the date on which they were so produced. No service under any articles shall count until the articles have been so produced as aforesaid.

2. (1) An apprentice may complete his period of service under one or more practising pharmacists provided that, on leaving any master to whom he was bound in articles and becoming bound to another master, he shall in every case execute fresh articles of apprenticeship and shall exhibit the same to the registrar.

(2) The registrar shall satisfy himself as to the date on which the apprentice's service under the former articles ended and shall endorse such date on the new articles and also the date of production of the new articles.

3. The two years' service must be continuous except for not more than 40 days' holiday in any period of 12 months:

Provided that service shall not be considered discontinuous by reason of an interval of not more than one month on a change of masters but such interval shall not be counted in reckoning the year's service.

CHAPTER 69

MATRIMONIAL RIGHTS AND INHERITANCE

Ordinances AN ORDINANCE TO AMEND THE LAW RELATING TO THE MATRIMONIAL RIGHTS OF
Nos' 15 of 1876 MARRIED PERSONS WITH REGARD TO PROPERTY AND THE LAW OF INHERITANCE.
2 of 1889
18 of 1922

[29th June. 1877.]

PART I

PRELIMINARY

Short title. 1. This Ordinance may be cited as the Matrimonial Rights and Inheritance Ordinance.*

Where persons of different races or nationalities intermarry, laws to which the husband is subject to prevail. Ordinance not otherwise to apply to Kandiyans or Muslims or Tamils under the Tesawalamai. 2. Whenever a woman marries, after the proclamation of this Ordinance, a man of different race or nationality from her own, she shall be taken to be of the same race and nationality as her husband for all the purposes of this Ordinance, so long as the marriage subsists and until she marries again. Save as aforesaid, this Ordinance shall not apply to Kandiyans or Muslims, or to Tamils of the Northern Province who are or may become subject to the Tesawalamai.

Interpretation. 3. In this Ordinance, unless the context otherwise requires—

"immovable property" includes land, incorporeal tenements, and things attached to the earth or permanently fastened to anything which is attached to the earth, and any interest in land except that of a mortgagee;

"matrimonial rights" means the respective rights and powers of married parties in and about the

management, control, disposition, and alienation of property belonging to either party, or to which either party may be entitled during marriage;

"movable property" means property of every description except immovable property;

"unmarried" means not having a husband or wife living;

all words expressive of relationship shall apply to a child in the womb at the time in question who is afterwards born alive.

PART II

MATRIMONIAL RIGHTS OF HUSBAND AND WIFE IN RESPECT OF PROPERTY

4.+ The respective matrimonial rights of any husband and wife with regard to property or status arising under or by virtue of any marriage solemnized before the proclamation of this Ordinance, and all rights which any other person may have acquired or become entitled to under or by virtue of any such marriage, shall (except where hereinafter otherwise expressly provided) be governed by such law as would have been applicable thereto if this Ordinance had not been passed. This Ordinance not to affect rights acquired under marriages solemnized before the proclamation of this Ordinance.

* See also section 24 (2) of the Judicature Act.

+ Sections 4 to 19 (both inclusive) are repealed by section 4 of the Married Women's Property Ordinance, in so far as they relate to persons married on or after the 29th day of June, 1877.

Rights of husband and wife domiciled or resident in Sri Lanka in respect of movable property to be governed by this Ordinance.

5.* The respective matrimonial rights of every husband and wife domiciled or resident in Sri Lanka, and married after the proclamation of this Ordinance, in, to, or in respect of movable property shall, during the subsistence of such marriage and of such domicile or residence, be governed by the provisions of this Ordinance.

Rights of husband and wife in respect of immovable property situate in Sri Lanka to be governed by this Ordinance.

6.* The respective matrimonial rights of every husband and wife, married after the proclamation of this Ordinance, in, to, or in respect of any immovable property situate in Sri Lanka shall, during such marriage, be governed by the provisions of this Ordinance.

Community of goods not a consequence of marriage.

7.* There shall be no community of goods between husband and wife, married after the proclamation of this Ordinance, as a consequence of marriage, either in respect of movable or immovable property.

Immovable property of the wife.

8.* Any immovable property to which any woman, married after the proclamation of this Ordinance, may be entitled at the time of her marriage, or may become entitled during her marriage, shall, subject and without prejudice to the trusts of any will or settlement affecting the same, belong to the woman for her separate estate, and shall not be liable for the debts or engagements of her husband, unless incurred for or in respect of the cultivation, upkeep, repairs, management, or improvement of such property, or for or in regard to any charges, rates, or taxes imposed by law in respect thereof, and her receipts alone or the receipts of her duly authorized agent shall be a good discharge for the rents, issues, and profits arising from or in respect of such property. Such woman shall, subject and without prejudice to any such trusts as aforesaid, have as full power of disposing of and dealing with such property, by any lawful act inter vivos with the written consent of her husband, but not otherwise, or by last will without such consent, as if she were unmarried.

Wages and earnings of the wife.

9.* The wages and earnings of any married woman, whether married before or after the proclamation of this Ordinance, which may be acquired or gained by her

after the proclamation of this Ordinance in any employment, occupation, or trade in which she is engaged or which she carries on separately from her husband, and also any money or property so acquired by her through the exercise of any literary, artistic, or scientific skill, shall be deemed and taken to be her separate property, independent of the debts, control, or engagements of her husband, and she shall have as full power of dealing with and disposing of the same or any investment thereof as if she were unmarried, and her receipts alone shall be a good discharge for such wages, earnings, money, and property and the principal and interest of any investments thereof.

10.* All jewels and all personal or household ornaments and wearing apparel belonging to a woman, married after the proclamation of this Ordinance, at the time of her marriage, and also all jewels, personal ornaments, and apparel suitable in respect of value to her rank and condition of life, which she may acquire during marriage, whether by gift from her husband or otherwise, and all tools, implements, and appliances belonging to her during marriage, which may be requisite for the carrying on of any employment or trade in which she may be engaged separately from her husband, and all implements of husbandry, machinery, live and dead stock belonging to her during marriage and bona fide kept upon and employed for the cultivation or proper uses of any immovable property belonging to her for her separate estate, shall, subject and without prejudice to the trusts and provisions of any will or valid settlement affecting the same, belong to the woman for her separate estate independent of the debts, control, and engagements of her husband, and she shall have as full power of disposing of and dealing with the same by any lawful act inter vivos with the consent of her husband or by last will without such consent, as if she were unmarried.

Wife's jewels, implements of trade and agriculture, to form part of her separate estate.

11.* If in any case, in which the consent of a husband is required by this Ordinance for the valid disposition of or dealing with any property by the wife, the wife shall be

When husband's consent may dispensed with

• Sections 4 to 19 (both inclusive) are repealed by section 4 of the Married Women's Property Ordinance, in so far as they relate to persons married on or after the 29th day of June, 1877.

deserted by her husband or separated from him by mutual consent, or he shall have lain in prison under the sentence or order of any competent court for a period exceeding two years, or if he shall be a person of unsound mind or idiot, or his place of abode shall be unknown, or if his consent is unreasonably withheld, or the interest of the wife or children of the marriage require that such consent should be dispensed with, it shall be lawful for the wife to apply by petition to the Family Court of the district in which she resides, or in which the property is situate, for an order authorizing her to dispose of or deal with such property without her husband's consent; and such court may, after summary inquiry into the truth of the petition, make such order, and that subject to such conditions and restrictions, as the justice of the case may require; whereupon such consent shall, if so ordered and subject to the terms and conditions of such order, become no longer necessary for the valid disposition of or dealing with such property by such woman. Every such petition shall require a stamp of ten rupees, but no further stamps shall be required for any legal proceedings under this section. Such order shall be subject to appeal to the Court of Appeal in the same manner and subject to the same rules and procedure as interlocutory orders of Family Courts :

Provided, however, that in any case, when a separation a mensa et thoro has been decreed by a competent court, the consent of the husband shall not be necessary to enable the wife, so separated, to deal with or dispose other property.

12.* It shall be lawful for any husband or wife, whether married before or after the proclamation of this Ordinance, notwithstanding the relation of marriage and notwithstanding the existence of any community of goods between them, to make or join each other in making, during the marriage, any voluntary grant, gift, or settlement of any property, whether movable or immovable, to, upon, or in favour of the other; but all property so granted, gifted, or settled, and all acquisitions made by a husband or wife out

Power of spouses to settle or gift property during marriage.

of or by means of the moneys or property of the other, shall, except as otherwise provided by section 10, be subject to the debts and engagements of each spouse in the same manner and to the same extent as if such grant, gift, settlement, or acquisition had not been made or occurred.

13.* Whenever any question shall arise between any woman married after the proclamation of this Ordinance, or any person claiming under her and any creditor or alienee of her husband, as to the mode and time of the acquisition of any property claimed by such woman, it shall be incumbent upon such woman or person claiming under her to prove in what manner and at what time she became entitled to such property.

Burden of proof on the wife.

14.* (1) If any question or dispute shall arise between any husband and wife (whether married before or after the proclamation of this Ordinance) relative to any property declared by this Ordinance to be the separate property of the wife, either party may apply by motion in a summary way to the Family Court of the district in which either party resides; and thereupon the Judge of the Family Court may make such order, direct such inquiry, and award such costs, as he shall think fit; and the Judge of the Family Court may, if either party so require, hear the application in his private room.

Disputes between husband and wife as to wife's estate to be settled summarily by Family Court.

(2) Any order so made shall be subject to appeal to the Court of Appeal, and for the purposes of such appeal shall be regarded as an interlocutory order of the Family Court.

(3) Every such motion shall require a stamp of ten rupees, but no further stamps shall be required for any other legal proceedings under this section.

15.* A married woman (whether married before or after the proclamation of this Ordinance) may after the proclamation of this Ordinance effect a policy of insurance upon tier own life or the life of her husband for her separate use; and the

Wife may effect a policy of insurance.

• Sections 4 to 19 (both inclusive) are repealed by section 4 of the Married Women's Property Ordinance, in so far as they relate to persons married on or after the 29th day of June, 1877.

same and all benefits thereof, if expressed on the face of it to be so effected, shall enure accordingly, and the contract in such policy shall be as valid as if made with an unmarried woman.

Husband may insure his life for the benefit of his family.

16.* A policy of insurance, whether effected before or after the proclamation of this Ordinance, by any married man (whether married before or after the proclamation of this Ordinance) on his own life, and expressed upon the face of it to be for the benefit of his wife or of his wife and children or any of them, shall enure and be deemed a trust for the benefit of his wife for her separate use and of his children or any of them according to the interests so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband or his creditors, or form part of his estate:

Provided that if it shall be proved that the policy was effected and the premiums paid by the husband with intent to defraud his creditors they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid.

All other movable property of the wife to vest in the husband.

17.* All movable property to which any woman, married after the proclamation of this Ordinance, shall be entitled at the time of her marriage or may become entitled during her marriage, shall, subject and without prejudice to any settlement affecting the same, and except so far as is by this Ordinance otherwise provided, vest absolutely in her husband.

Wife with separate property liable for the maintenance of her children.

18.* A married woman having separate property adequate for the purpose shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children:

Provided that nothing in this Ordinance shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

19.* Whereas doubts have been entertained whether the Article 6 of the Placaat or Edict of the Emperor Charles V, dated the 4th day of October, 1540, relating to marriage settlements, is operative in Sri Lanka, it is hereby enacted that the said Article of the said Placaat has no force or operation in Sri Lanka.

Article 6 of Placaat of Charles V of 1540 declared to have no operation in Sri Lanka.

PART III

INHERITANCE

20. The following sections of this Ordinance shall apply to the estates of such persons only as shall die after the proclamation of this Ordinance, and shall be then unmarried or (if married) shall have been married after the proclamation of this Ordinance.

Following sections to whom applicable.

21. (1) Inheritance ab intestato to the immovable property in Sri Lanka of a person deceased shall be governed and regulated by the following provisions of this Ordinance wherever such person may have or have had his actual or matrimonial domicile.

Inheritance to immovable property in Sri Lanka to be governed by this Ordinance.

(2) Inheritance ab intestato to the movable property of a person deceased shall be governed and regulated by the law of the country in which he had his domicile at the time of his death:

Inheritance to movable property to be governed by the law of domicile.

Provided that when any person shall have his domicile in any part of Sri Lanka, such domicile shall, so far as relates to the inheritance to his movable property, be deemed to be in the Maritime provinces;

Provided also that if a person dies leaving movable property in Sri Lanka, in the absence of proof of his domicile elsewhere, the inheritance to such property shall be governed by the following provisions of this Ordinance.

22. When any person shall die intestate as to any of his or her property, leaving a spouse surviving, the surviving spouse shall inherit one-half of the property of such person.

Surviving spouse inherits one-half.

* Sections 4 to 19 (both inclusive) are repealed by section 4 of the Married Women's Property Ordinance, in so far as they relate to persons married on or after the 29th day of June, 1877.

Order of devolution of property.

23. Subject to the right of the surviving spouse in the preceding section mentioned, the right of inheritance is divided in the following order as respects (a) descendants, (b) ascendants, (c) collaterals.

property, and divide the other half with the half-brothers and sisters and their issue by representation.

Preferential right of children.

24. Children, grandchildren, and remoter descendants are preferent to all others in the estate of the parents; all the children take equally per capita, but the children or remoter issue of a deceased child take per stirpes or by representation.

28. When full brothers and sisters or their children or remoter issue fail, and there are half-brothers' and sisters' children or remoter issue on both sides alive, then one-half of the property goes to the half-brothers and sisters or their children and remoter issue by representation on the father's side, and the other half to the half-brothers and sisters on the mother's side and their children and remoter issue by representation.

When full brothers and their children fail.

When descendants fail.

25. The children and remoter descendants failing, the inheritance of the deceased goes to his father and mother in case they are both alive ; but if only one of the parents be alive, the surviving parent takes half, and the brothers and sisters of the deceased of the full blood, and the issue of any deceased brother or sister of the full blood, by representation, and the brothers and sisters of the half-blood who are related to the intestate by the side of the deceased parent, and the issue of any such deceased brother or sister of the half-blood, by representation, take the other half. In case there is no full or half-brother or sister alive at the death of the deceased, the surviving parent inherits the whole, although there may be children or other issue of deceased brothers or sisters.

29. In case all the half-brothers and sisters, their children and remoter issue, are related to the intestate on one side only, they take the whole of the inheritance, unless there be a grandfather or grandmother or higher ascendant yet alive, related to the intestate on the other side, in which case such half-brothers and sisters, their children and remoter issue by representation take one-half only, and the next ascendants per capita the other half.

In case there are only half-brothers on one side.

In case of parents failing.

26. Father and mother both failing, the property of the intestate goes to his brothers and sisters, whether of the whole or half-blood, and their children and other issue by representation.

30. Except when otherwise expressly provided, if all those who succeed to the inheritance are equally near in degree to the intestate, they take per capita and not per stirpes.

Where all who succeed are equally near in degree.

Division in case of half-brothers and sisters.

27. The division however in the case of half-brothers and sisters is as follows:—

The inheritance is divided into two parts; the one-half the full brothers and sisters and the issue of such as are deceased by representation divide with the half-brothers and sisters of the father's side and the issue of such as are deceased by representation; and the other half they divide with those of the mother's side and the issue of such as are deceased by representation ; but if there are only half-brothers and sisters or such issue of one side, the full brothers and sisters and the issue of deceased full brothers and sisters by representation take then in the first place one-half of the

31. All the persons above enumerated failing, the inheritance goes first to the nearest in the ascending line per capita. although it should happen that on the one side both the grandfather and the grandmother, and on the other side only one of these parents, should be alive. Afterwards to uncles and aunts and the children of deceased uncles and aunts per stirpes. Uncles and aunts failing, then to their children and also great-uncles and aunts with them per capita.

All persons above enumerated failing.

32. All the persons above enumerated failing, the entire inheritance goes to the surviving spouse, if any, and if none then to the next heirs of the intestate per capita.

All persons above enumerated failing, surviving spouse takes.

33. Illegitimate children inherit the property of their intestate mother, but not that of their father or that of the relatives of

Illegitimate children.

their mother. Where an illegitimate person leaves no surviving spouse or descendants, his or her property will go to the heirs of the mother, so as to exclude the State.

On failure of heirs estate escheats to State.

34. If anyone dies intestate without heirs, his or her estate escheats to the State. If, however, any heirs can be found, even beyond the tenth degree, they take the inheritance.

Collation by children or grandchildren.

35. Children or grandchildren by representation becoming with their brothers and sisters heirs to the deceased parents are bound to bring into hotchpot or collation

all that they have received from their deceased parents above the others either on the occasion of their marriage or to advance or establish them in life, unless it can be proved that the deceased parent, either expressly or impliedly, released any property so given from collation.

36. In all questions relating to the distribution of the property of an intestate, if the present Ordinance is silent, the rules of the Roman-Dutch law as it prevailed in North Holland are to govern and be followed.

The rules of the Roman-Dutch law as it prevailed in North Holland to be followed where Ordinance is silent.

CHAPTER 70

MATRIMONIAL RIGHTS AND INHERITANCE (JAFFNA)

Ordinances
Nos. 1 of 1911,
58 of 1947.

AN ORDINANCE TO AMEND THE LAW RELATING TO THE MATRIMONIAL RIGHTS OF THE
TAMILS WHO ARE NOW GOVERNED BY THE "TESAWALAMAI" WITH REGARD TO
PROPERTY AND LAW OF INHERITANCE.

[17th July. 1911.]

PART I

PRELIMINARY

Short title.

1. This Ordinance may be cited as the Jaffna Matrimonial Rights and Inheritance Ordinance.*

where hereinafter is otherwise expressly provided) be governed by such law as would have been applicable thereto if this Ordinance had not been passed.

Application of Ordinance.

2. This Ordinance shall apply only to those Tamils to whom the Tesawalamai applies, and it shall apply in respect of their movable and immovable property wherever situate.

5. The respective matrimonial rights of every husband and wife married after the commencement of this Ordinance in, to, or in respect of movable or immovable property shall, during the subsistence of such marriage, be governed by the provisions of this Ordinance.

Matrimonial rights of those married after the Ordinance to be governed by the Ordinance.

Applicability of Tesawalamai to married women.

3. (1) Whenever a woman to whom the Tesawalamai applies marries a man to whom the Tesawalamai does not apply, she shall not during the subsistence of the marriage be subject to the Tesawalamai.

6. All movable or immovable property to which any woman married after the commencement of this Ordinance may be entitled at the time of her marriage, or which she may during the subsistence of the marriage acquire or become entitled to by way of gift or inheritance or by conversion of any property to which she may have been so entitled or which she may so acquire or become entitled to, shall, subject and without prejudice to the trusts of any will or settlement affecting the same, belong to the woman for her separate estate, and shall not be liable for the debts or engagements of her husband, unless incurred for or in respect of the cultivation, upkeep, repairs, management, or improvement of such property, or for or in regard to any charges, rates, or taxes imposed by law in respect thereof, and her receipts atone or the receipts of her duly authorized agent shall be a good discharge for the rents, issues,

Property of a wife acquired during or before marriage to remain her separate property.

(2) Whenever a woman to whom the Tesawalamai does not apply marries a man to whom the Tesawalamai does apply, she shall during the subsistence of the marriage be subject to the Tesawalamai.

PART II

MATRIMONIAL RIGHTS OF HUSBAND AND WIFE WITH REFERENCE TO PROPERTY

Matrimonial rights of spouses married before the Ordinance.

4. The respective matrimonial rights of any husband and wife with regard to property or status arising under or by virtue of any marriage solemnized before the commencement of this Ordinance, and all rights which any other person may have acquired or become entitled to under or by virtue of any such marriage, shall (except

* See also section 24 (2) of the Judicature Act.

and profits arising from or in respect of such property. Such woman shall, subject and without prejudice to any such trusts as aforesaid, have as full power of disposing of and dealing with such property by any lawful act inter vivos without the consent of the husband in case of movables, or with his written consent in the case of immovables, but not otherwise, or by last will without consent, as if she were unmarried.

disposition of or dealing with such property by such woman. Every such petition shall require a stamp of ten rupees, but no further stamp duty shall be required for any legal proceedings under this section. Such order shall be subject to appeal to the Court of Appeal:

Property of husband acquired before or after marriage to be his separate property.

7. All movable or immovable property to which any husband married after the commencement of this Ordinance may be entitled at the time of his marriage, or, which he may during the subsistence of the marriage acquire or become entitled to by way of gift or inheritance or by conversion of any property to which he may have been so entitled or which he may so acquire or become entitled to, shall, subject and without prejudice to the trusts of any will or settlement affecting the same, belong to the husband for his separate estate. Such husband shall, subject and without prejudice to any such trusts as aforesaid, have full power of disposing of and dealing with such property.

Provided, however, that in any case where a separation a mensa et thoro has been decreed by a competent court, the consent of the husband shall not be necessary to enable the wife so separated to deal with or dispose of her property. The summary inquiry prescribed by this section may be held by the Judge of the Family Court in his private room if either party so requires.

Power to Family Court to supply consent in certain cases.

8. If in any case in which the consent of a husband is required by this Ordinance for the valid disposition of or dealing with any property by the wife, the wife shall be deserted by her husband or separated from him by mutual consent, or he shall have lain in prison under a sentence or order of any competent court for a period exceeding two years, or if he shall be a person of unsound mind or idiot, or his place of abode shall be unknown, or if his consent is unreasonably withheld, or the interest of the wife or children of the marriage require that such consent should be dispensed with, it shall be lawful for the wife to apply by petition to the Family Court of the district in which she resides or in which the property is situated for an order authorizing her to dispose of or deal with such property without her husband's consent; and such court may, after summary inquiry into the truth of the petition, make such order, and that subject to such conditions and restrictions as the justice of the case may require, whereupon such consent shall, if so ordered and subject to the terms and conditions of such order, become no longer necessary for the valid

9. It shall be lawful for any husband or wife (whether married before or after the commencement of this Ordinance), notwithstanding the relation of marriage, to make or join each other in making during the marriage any voluntary grant, gift, or settlement of any property, whether movable or immovable, to, upon, or in favour of the other; but, except jewels, personal ornaments, and wearing apparel suitable in respect of value to the wife's rank given to her by her husband, all property so granted, gifted, or settled, and all acquisitions made by a husband or wife out of or by means of the moneys or property of the other, shall be subject to the debts and engagements of each spouse in the same manner and to the same extent as if such grant, gift, settlement, or acquisition had not been made or had not occurred.

power of husband or wife to make gifts to each other.

10. (1) If any question or dispute shall arise between any husband and wife (whether married before or after the commencement of this Ordinance) relative to any property declared by this Ordinance to be the separate property of the wife, either party may apply by motion in a summary way to the Family Court of the district in which either party resides, and thereupon the Judge of the Family Court may make such order, direct such inquiry, and award such costs as he shall think fit; and the Judge of the Family Court may, if either party so require, hear the application in his private room.

Power of Family Court to settle dispute between husband and wife

(2) Any order so made shall be subject to appeal to the Court of Appeal.

(3) Every such motion shall require a stamp of ten rupees, but no further stamp duty shall be required for any other legal proceedings under this section.

Power to husband or wife to effect policy of insurance upon his or her life.

11. A husband or wife (whether married before or after the commencement of this Ordinance) may after the commencement of this Ordinance effect a policy of insurance upon his or her own life or the life of his or her wife or husband, as the case may be, for his or her separate use; and the same and all benefits thereof if expressed on the face of it to be so effected shall enure accordingly, and the contract in such policy with a married woman shall be as valid as if made with an unmarried woman,

Effect of life insurance by husband in favour of wife or children.

12. A policy of insurance, whether effected before or after the commencement of this Ordinance, by any married man (whether married before or after the commencement of this Ordinance), on his own life and expressed upon the face of it to be for the benefit of his wife or of his wife and children or any of them, shall enure and may be deemed a trust for the benefit of his wife for her separate use and of his children or any of them according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband or his creditors or form part of the estate;

Provided that if it shall be proved that the policy was effected and the premiums paid by the husband with intent to defraud his creditors, they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid.

Married woman having separate property to be liable to maintain her children.

13. A married woman having separate property adequate for the purpose shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children:

Husband's liability not affected thereby.

Provided that nothing in this Ordinance shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

PART III
INHERITANCE

14. The following sections of this Ordinance shall apply to the estate of such persons only as shall die after the commencement of this Ordinance, and shall be then unmarried, or if married, shall have been married after the commencement of this Ordinance.

Applicability of sections of this Part of the Ordinance.

15. Property devolving on a person by descent at the death of his or her parent or of any other ancestor in the ascending line is called mudusam (patrimonial inheritance).

Mudusam or property devolving on death of ancestor.

16. Property devolving on a person by descent at the death of a relative other than a parent or an ancestor in the ascending line is called urumai (non-patrimonial inheritance).

Urumai or property devolving on death of relative.

17. Property received by any person in mudusam, or in urumai, or in dowry, or under a will as heir, or legatee, or in donation, or in a manner other than for pecuniary consideration from a father, or any of his ascendants, or any of his collateral relations is said to be property derived from the father's side.

Property derived from the father's side.

18. Property received in mudusam, or in urumai, or in dowry, or under a will as heir or legatee, or in donation, or in a manner other than for pecuniary consideration from a mother, or any of her ascendants, or any of her collateral relations, is said to be property derived from the mother's side.

Property derived from the mother's side.

19. No property other than the following shall be deemed to be the thediatheddam of a spouse :—

Meaning of the thediatheddam.

(a) Property acquired by that spouse during the subsistence of the marriage for valuable consideration, such consideration not forming or representing any part of the separate estate of that spouse.

(b) Profits arising during the subsistence of the marriage from the separate estate of that spouse.

20. On the death of either spouse one half of the thediatheddam which belonged to the deceased spouse, and has not been

Devolution of the thediatheddam.

MATRIMONIAL RIGHTS AND INHERITANCE (JAFFNA) [Cap. 70]

disposed of by last will or otherwise, shall devolve on the surviving spouse and the other half shall devolve on the heirs of the deceased spouse.

issue by representation, or only on half-brothers and half-sisters related to the intestate by the side of the mother and their issue by representation, if there are no full brothers and sisters or their issue.

Inheritance generally.

21. Subject to the right of the surviving spouse in the preceding section mentioned, the right of inheritance is divided in the following order as respects (a) descendants, (b) ascendants, (c) collaterals.

27. All the persons above enumerated failing, the property derived by the intestate from the father's side and one-half of the remainder of the intestate's estate (exclusive of the property derived from the mother's side) shall devolve on the paternal grandparent or grandparents of the intestate, if surviving; and failing them, on paternal uncles and aunts and the issues of the paternal uncles and aunts by representation; paternal uncles and aunts and their issues failing, on the great-grandparent or great-grandparents per capita, if surviving; and failing them, on the brothers and sisters of the paternal grandparents and their descendants, if surviving; afterwards on the brothers and sisters of the next nearest in the ascending line of the father and their descendants by representation, if surviving.

Rights of paternal grandparents, paternal uncles and aunts, and great-grandparents.

Rights of children, grandchildren, and remoter descendants.

- 22. Children, grandchildren, and remoter descendants are preferent to all others in the estate of the parents. All the children take equally per capita ; but the children or remoter issue of a deceased child take per stirpes.

Heir in default of children.

23. The children and remoter descendants failing, the whole of the property the deceased derived from the father's side and one-half of the remainder of the estate of the deceased (exclusive of the property derived from the mother's side) the father, if surviving, shall inherit.

28. The property derived from the mother's side and one-half of the remainder of the intestate's estate (exclusive of that derived from the father's side) shall devolve on the maternal grandparent or grandparents, if surviving ; and failing them, on maternal uncles and aunts and the issue of the maternal uncles and aunts by representation; maternal uncles and aunts and their issue failing, on the great-grandparent or great-grandparents per capita, if surviving; and failing them, on the brothers and sisters of the maternal grandparents and their descendants, if surviving; afterwards on the brothers and sisters of the next nearest in the ascending line of the mother and their descendants by representation who may be surviving,

Rights of maternal grandparents, maternal uncles and aunts, and maternal great-grandparents.

Mother's right where children fail.

24. The whole of the property the deceased derived from the mother's side and one-half of the remainder of the estate of the deceased (exclusive of the property derived from the father's side) the mother, if surviving, shall inherit.

Rights of brothers and sisters where father has predeceased intestate.

25. Father failing, the property of the intestate derived from the father's side and one-half of the remainder of the intestate's estate (exclusive of that derived from the mother's side) shall devolve upon the intestate's full brothers and sisters as well as upon half-brothers and half-sisters related to the intestate by the side of the father, in equal shares, and their children and other issue by representation, or only on half-brothers and half-sisters related to the intestate by the side of the father and their issue by representation, if there are no full brothers and sisters or their issue.

29. Except when otherwise expressly provided, if all those who succeeded to the inheritance are equally near in degree to the intestate, they take per capita and not per stirpes.

How estate is divided where those who inherit are equally near in degree to intestate.

Rights where mother has predeceased intestate.

26. Mother failing, the property of the intestate derived from the mother's side and one-half of the remainder of the intestate's estate (exclusive of that derived from the father's side) shall devolve upon the intestate's full brothers and sisters as well as on half-brothers and half-sisters related to the intestate by the side of the mother, in equal shares, and their children and other

30. (1) On failure of kindred on the father's side, property derived from that side shall devolve on the mother and her kindred in the order mentioned in the preceding sections.

How property is divided on failure of kindred on the side of either parent.

(2) On failure of kindred on the mother's side, property derived from that side shall devolve on the father and his kindred in the order prescribed in the foregoing sections.

38. A surviving spouse continuing in possession of the estate of the deceased spouse as stated in the last section shall be bound to maintain the children till they attain majority either by effluxion of time or by marriage.

Liability of surviving spouse to maintain minor child

When whole inheritance goes to the surviving spouse.

31. All the persons above enumerated failing, the entire inheritance goes to the surviving spouse, if any.

PARTY

When estate escheats to the State.

32. If anyone dies intestate without heirs, his or her estate escheats to the State. If, however, any heirs can be found, even beyond the tenth degree, they take the inheritance.

INTERPRETATION AND REPEAL

39. In this Ordinance, unless there is something repugnant in the subject or context—

Interpretation.

Collation of property by children or grand-children.

33. Children or grandchildren by representation becoming with their brothers and sisters heirs to the deceased parents, unless they abandon all right to inherit as heirs ab intestato, are bound to bring into hotchpot or collation all that they have received from their deceased parents above the others by way of dowry or otherwise on the occasion of their marriage, or to advance or establish them in life, unless it can be proved that the deceased parent either expressly or impliedly released any property so given from collation,

"immovable property" includes land, incorporeal tenements, and things attached to the earth or permanently fastened to anything which is attached to the earth, and any interest in land except such as arises from a mortgage;

"movable property" means property of every description except immovable property;

Rights of illegitimate children.

34. Illegitimate children shall inherit the property of their intestate mother, but not that of their father.

"matrimonial rights" means the respective rights and powers of married parties in or about the management, control, disposition, and alienation of property belonging to either party, or to which either party may be entitled during marriage;

Devolution of property of illegitimate children.

35. When an illegitimate person leaves no surviving spouse or descendants, his or her property will go to the mother, and then to the heirs of the mother so as to exclude the State.

"unmarried" means not having a husband or wife living.

Cases not provided for by this Ordinance.

36. In all questions relating to the distribution of the property of an intestate where this Ordinance is silent, the provisions of the Matrimonial Rights and Inheritance Ordinance, and such laws as apply to the Tamil inhabitants of the Western Province, shall apply.

All words expressive of relationship shall apply to a child in the womb at the time in question who is afterwards born alive.

PART IV

LIFE INTEREST

Interest of surviving spouse in estate devolving on minor child.

37. When the estate of a deceased parent devolves on a minor child, the surviving parent may continue to possess the same and enjoy the income thereof until such child is married or attains majority.

40. So much of the provisions of the Repeal. collection of customary law known as the Tesawalamai, and so much of the provisions of section 8 of the Wills Ordinance, as are inconsistent with the provisions of this Ordinance are hereby repealed.

CHAPTER 233

MERCHANT SHIPPING

Act
No. 52 of 1971.

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO MERCHANT SHIPPING
[IN FORCE IN SRI LANKA, AND TO MAKE PROVISION FOR MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO.

[25th January, 1972. except Part II.]

PART I—INTRODUCTORY

Short title and
date of
operation.

1. This Act may be cited as the Merchant Shipping Act, and shall come into operation on such date* as the Minister may appoint by Order published in the Gazette. Different dates may be so appointed for the purposes of the different Parts or provisions of this Act.

general superintendence of this Act and the general supervision of all matters relating to shipping and seamen throughout Sri Lanka, and is authorized to carry the provisions of this Act into execution.

Extension and
application of
Act.

2. This Act shall extend to the whole of Sri Lanka, and save as otherwise specifically provided, shall also apply to :—

(2) Any officer generally or specially authorized in that behalf by the Director may exercise, perform or discharge any power, duty or function vested in, or imposed or conferred upon, the Director under this Act, and any act done by, to or before any such officer shall be as valid for the purposes of this Act as if it were done by, to or before the Director.

(a) all Sri Lanka ships wherever they may be;

(b) all ships registered or deemed to be registered under this Act wherever they may be;

(c) all ships, not being Sri Lanka ships, licensed under this Act to engage in the coasting trade, while engaged in such trade; and

(d) all other ships while in a port or place in, or within the territorial waters^f of, Sri Lanka:

4. The Minister may, from time to time, give the Director general directions, not inconsistent with the provisions of this Act or any other written law, on the policy to be pursued in the administration of this Act, and the Director shall forthwith take such steps as are necessary or expedient to give effect thereto.

Power of
Minister to
give directions.

5. (1) There may be appointed, for the purposes of this Act, such deputies and assistants to the Director, and such other officers as may be necessary.

Appointment
of officers and
servants.

Provided, however, that this Act shall not apply to any ships of, or commissioned for service in, the Sri Lanka Navy or, while employed otherwise than for profit in the service of Government, any other ships belonging to Government.

(2) It shall be lawful for the Director to assign to such deputies or assistants and other officers as are referred to in subsection (1) the functions and duties to be carried out by them and every such officer discharging and performing any functions and duties under this Act shall be deemed, until the contrary is proved, to be the proper officer for the performance of that function or duty.

Appointment
of Director of
Merchant
Shipping.

3. (1) There may be appointed, for the purposes of this Act, a Director of Merchant Shipping who shall have the

* 25th January, 1972. except Part II — See Gazette No. 14,994/6 of 1972-01-25. Part II not in operation on 31st December, 1980-

^f See sections 2 and 11 of the Maritime Zones Law.

(3) AH such officers as are referred to in subsection (1) may exercise, perform or discharge all or any of the powers, duties or functions conferred or imposed on or assigned to them under this Act.

(4) In the exercise, performance and discharge of the powers, duties or functions conferred or imposed on or assigned to them under this Act, the officers referred to in subsection (1) shall be subject to the directions and control of the Director.

6. The Minister may assign any functions or duties under this Act to any person, by name or by office, and any such person shall, while discharging or performing any such functions or duties so assigned, be deemed to be a proper officer for the purposes of this Act. All such persons in discharging or performing any functions or duties assigned to them under this section shall be subject to the direction and control of the Director.

7. (1) There may be appointed, for the purposes of this Act, such number of Shipping Officers (which term shall include Deputy or Assistant Shipping Officers) for each port in Sri Lanka as may be necessary.

(2) It shall be the duty of a Shipping Officer for a port—

- (a) to afford facilities for engaging seamen by keeping registers of their names, sea service, and such other particulars as are prescribed by the Director;
- (b) to supervise and facilitate the engagement and discharge of seamen in the manner required under this Act;
- (c) to facilitate the making of apprenticeships to the sea service ;
- (d) to perform such other duties relating to seamen, apprentices and ships as under this Act, or any other law for the time being in force relating to merchant shipping, are committed to such Officer.

(3) Any act done by, to or before a Shipping Officer shall be valid and effectual

for the purposes of this Act, and shall be deemed to have been done for and on behalf of the Director.

(4) The fees prescribed under this Act shall be payable by the masters, agents or owners of ships to Shipping Officers in respect of the matters so prescribed.

8. The Minister may, by Notification published in the Gazette, designate any place at any port at which a person has been appointed under this Act to be a Shipping Officer, to be a Shipping Office for the transaction of business under this Act.

9. The Director may in his discretion dispense with the transaction in a Shipping Office, or before a Shipping Officer, of any matters required under this Act to be so transacted, and thereupon such matters (if otherwise duly transacted) shall be as valid as if they were transacted in such office or before a Shipping Officer.

10. (1) There may be appointed, for the purposes of this Act, a Chief Surveyor of Ships for Sri Lanka.

(2) There may be appointed, either generally or for special purposes or on special occasions, any person to be a Surveyor of Ships, an Engineer and Ship Surveyor, a Nautical Surveyor, or a Radio Surveyor.

(3) The Chief Surveyor of Ships and every Surveyor of Ships shall have and perform the powers, functions and duties conferred or imposed under this Act.

(4) The Chief Surveyor of Ships may delegate the exercise of any powers conferred on him under this Act to such persons as he may think fit.

(5) The duties of a Surveyor shall be performed under the direction of the Chief Surveyor of Ships, and in accordance with any rules made under this Act.

11. (1) The Director shall be the Chief Registrar of Sri Lanka Ships.

(2) There may be appointed at any such port as is considered necessary a person to be a Registrar of Sri Lanka Ships.

Designation of Shipping Offices.

Power of Director to dispense with transaction of certain matters at Shipping Offices.

Appointment of Surveyors, &c.

Chief Registrar and Registrars of Sri Lanka Ships.

Powers of Minister.

Appointment and duties of Shipping Officers.

(3) A Registrar of Sri Lanka Ships shall perform his duties under the direction of the Chief Registrar of Sri Lanka Ships.

(4) A Registrar of Sri Lanka Ships shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act or omission by him in the exercise of his duties as Registrar.

12. The Minister may, by Notification published in the Gazette, delegate to the Director or the Chief Surveyor of Ships, or any other officer appointed under this Act and specified in such Notification, the exercise of any powers (other than the power to make any subsidiary legislation) or the performance of any duties conferred or imposed on him under this Act, subject to such conditions and restrictions as may be specified in such Notification. No such delegation shall affect the exercise of such power or the performance of such duty by the Minister; and every officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

13. (1) There may be appointed, for the purposes of this Act, a Registrar of Seamen.

(2) The Registrar of Seamen shall by means of documents transmitted to him in pursuance of this Act and by any other means in his power, keep at his office a register—

- (a) of all persons who serve in Sri Lanka ships; and
- (b) of all seamen (being citizens of Sri Lanka) who produce continuous discharge certificates in proof of service in foreign or Sri Lanka ships.

(3) The Registrar of Seamen shall cause copies of the certificates produced under paragraph (b) of subsection (2) to be kept at his office.

PART II—CONTROL OF SHIPPING •

14. This Part, other than sections 28 and 29, shall apply only to such sea-going ships

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

as the Minister may fix by Notification published in the Gazette. Such Notification shall come into force on such date as may be specified therein.

15. (1) No person shall charter any ship, whether a Sri Lanka ship or not, or being the owner of any Sri Lanka ship, or the agent of such owner, give or offer to give on charter any such ship to any other person, except with the previous permission in writing of the Director, or otherwise than in accordance with the conditions subject to which such permission is so granted-

(2) Any person who contravenes or attempts to contravene the provisions of subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding ten thousand rupees, or to both such imprisonment and fine.

16. (1) No Sri Lanka ship, or ship chartered by any person shall be taken to sea from a port or place within or outside Sri Lanka except under the authority of a licence granted in that behalf by the Director, or otherwise than in accordance with the conditions of such licence.

(2) A licence granted under subsection (1) may, in the discretion of the Director, be—

- (a) a general licence; or
- (b) a licence for a specified period or a specified voyage.

(3) Subject to the provisions of section 17, a general licence shall remain valid until it is revoked or cancelled, and a licence for a specified period or a specified voyage shall be valid only for the period or voyage for which it is granted, unless the period is extended by the Director.

(4) A licence granted under subsection (1) may contain such conditions as the Director may think fit to impose with respect to the trades in which the ship may engage and the voyages which it may undertake, and such conditions may be imposed so as to apply to the ship wherever it may be or while in such waters, or engaged in such trades, or on such voyages, as may be specified.

Restriction on chartering of ships.

Licences to take ships to sea.

Minister may delegate certain powers and duties.

Appointment of Registrar of Seamen.

Application of this Part.

(5) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Revocation, &c., of licence.

17. (1) Any licence granted under this Part may be modified, suspended, revoked or cancelled by the Director, but no such licence shall be revoked or cancelled, unless the licensee has been given an opportunity of making representations against such revocation or cancellation;

Provided that any applicant for registration dissatisfied with the decision of the Director may appeal to the Minister in the prescribed manner.

(2) Where a licence granted under this Part is revoked or cancelled or otherwise ceases to be valid, the licensee shall, within sixty days after such revocation, cancellation or cessation, return it or cause it to be returned to the Director.

(3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Unlicensed ships.

18. (1) Where, in respect of any such ship as is referred to in section 16 no licence has been granted or is in force, the Director, if satisfied that it is necessary or expedient in the public interest or in the interest of shipping in general so to do, may by order in writing, direct the owner or charterers thereof to operate the ship, on any assigned route on such terms and conditions as may be determined by the Director, and the provisions of this Part shall, so far as may be, apply in relation to such ship as if the direction were a licence issued under this Part.

(2) Any person who fails to comply with an order made under subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three

thousand rupees, or to both such imprisonment and fine.

19. (1) An officer of customs shall not grant a port clearance to a ship required to take a licence under this Part, until the owner or master thereof has produced the requisite licence and a certificate from the Director to the effect that the conditions of the licence have been duly fulfilled.

No port clearance until licence is produced.

(2) If a ship attempts to proceed to sea without a port clearance, she may be detained until the licence and certificate are produced as required by subsection (1).

20. (1) The Director may, if satisfied that it is necessary or expedient in the public interest or in the interest of shipping in general so to do, and shall, where so directed by the Minister, by order in writing give, to a ship which has been granted a licence under this Part, directions with respect to all or any of the following matters:—

Power to give directions-

- (i) the ports or places, whether in or outside Sri Lanka, to which, and the routes by which, the ship shall proceed for any particular purpose ;
- (ii) the diversion of the ship from one route to another for any particular purpose;
- (iii) the dates, if any, of arrival and departure of the ship at or from any port or place;
- (iv) the classes of passengers which may be carried in the ship;
- (v) the kind of cargo which may be carried in the ship and the quantity in which such cargo may be put on board by any shipper specified in the order;
- (vi) the order or priority in which passengers or cargo may be taken on or put off the ship at any port or place, whether in or outside Sri Lanka; and
- (vii) the person or persons to whom passages may be given.

(2) Any person who fails to comply with any direction given under subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Shipping Allocation Board

21. The Minister may, by Notification published in the Gazette, constitute a Shipping Allocation Board to advise him on the matters enumerated in section 20.

Powers to fix shipping rates.

22. (1) The Minister may, from time to time, by Order published in the Gazette, fix the rates at which any Sri Lanka ship may be hired, and the rates which may be charged for carriage of passengers or cargo by any such ship, or by any ship, other than a Sri Lanka ship, engaged in the coasting trade.

(2) Where an Order fixing the rates to be charged for hire, or for the carriage of passengers or cargo, has been published under subsection (1), no rates, other than the rates so fixed, shall be charged for such hire or carriage.

(3) The owner, master, or agent of the owner, of a ship in respect of which the provisions of subsection (2) are contravened shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Shipping Rates Advisory Board.

23. The Minister may, by Notification published in the Gazette, constitute a Shipping Rates Advisory Board to advise him on matters referred to in section 22.

Power to call for information.

24. (1) The Director may, by notice served personally or by post, require the master or owner of any ship in respect of which a licence granted under this Part is in force, to furnish within the period specified in the notice, information regarding all or any of the following matters :—

- (i) the classes of passengers and cargo which the ship is about to carry or is capable of carrying or has carried

during any period specified in that behalf in the notice ;

- (ii) the rates of passenger fares and freight charges applicable to the ship; and
- (iii) any other matter relating to the aforesaid matters which may be specified by rules made by the Minister,

(2) If any person on whom a notice has been served under subsection (1) fails to furnish the information required within the specified time or in furnishing such information, makes any statement which he knows to be false in any material particular, he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

25. (1) The master or the agent in Sri Lanka of the owner of any ship, not being a ship referred to in section 20, which engages or is engaged in the carriage of passengers or cargo from any port or place in Sri Lanka to any port or place outside Sri Lanka shall file a schedule of passenger fares and freight charges applicable to that ship with the Director for the approval of the Minister in so far as the fares and charges relate to such carriage, and in so approving the Minister may fix rates or charges reducing or enhancing any such fares or charges.

Submission of schedule of fares, &c., in respect of certain ships.

(2) No fares and charges other than those approved under subsection (1), shall be charged in respect of any carriage to which the fares and charges so approved relate.

26. Where in respect of any ship to which a licence has been granted under this Part the Director has reason to suspect that any of the provisions of this Part is not being complied with, he may enter, or authorize any other person to enter, on board the ship and ask for the relevant documents for examination.

Power of Director to enter ships.

27. If any of the conditions contained in a licence granted under this Part is contravened, the master and the owner, or,

Penalty.

in the case of a ship other than a Sri Lanka ship, the agent in Sri Lanka of the owner, of the ship in respect of which the contravention has taken place, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Restrictive practices in relation to the carriage of goods by sea.

28. (1) The Minister may, in accordance with the provisions of subsection (2), if he deems fit,—

- (a) declare it an offence for any person either as principal or agent to enter into a contract or to be or continue to be a member of or engaged in any combination in relation to the carriage of goods by sea to and from Sri Lanka in restraint of or with intent to restrain such carriage of goods by sea, and prescribe penalties and other punishments for such offence;
- (b) declare it an offence for any person to monopolise, or to combine or conspire with any other person to monopolise, any part of the trade in relation to the carriage of goods by sea to and from Sri Lanka, and prescribe penalties and other punishments for such offence ;
- (c) declare it an offence for any person in relation to the carriage of goods by sea to and from Sri Lanka either as principal or agent, in respect of dealings in respect of such carriage of goods by sea, to offer or promise to any other person any rebate, refund, discount, concession or reward for the reason or upon conditions expressed or implied which the Minister may declare unlawful, and prescribe penalties and other punishments for such offence;
- (d) declare it an offence for any person to refuse, either absolutely or except upon disadvantageous conditions, to undertake the carriage of goods by sea to and from Sri Lanka to any other person for any reason

declared by the Minister to be unlawful, and prescribe penalties and other punishments for such offence ;

- (e) declare any contracts entered into in contravention of any declarations under the preceding paragraphs (a), (b), (c) and (d) as illegal and void.

(2) The Minister may make regulations for giving effect to the provisions of this section and related matters.

29. (1) The Minister may make rules for carrying out the purposes of this Part. Power to make rules-

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters:—

- (a) the forms of licences ;
- (b) the procedure to be followed by Boards constituted under sections 21 and 23;
- (c) the manner in which rates shall be fixed under section 22;
- (d) the matters regarding which information may be required to be furnished under section 24 ;
- (e) any other matters relating thereto for which it is necessary to make provision.

PART III—REGISTRY

CHAPTER I : REGISTRATION OF SRI LANKA SHIPS

30. A ship shall not be deemed to be a Sri Lanka ship, unless it is owned wholly by— Qualification for owning Sri Lanka ship.

- (a) a natural person who is a citizen of Sri Lanka; or
- (b) the Ceylon Shipping Corporation, or any Government-Sponsored Shipping Company or Corporation; or
- (c) any body corporate as may be determined by the Minister.

Obligation to register Sri Lanka ships.

31. (1) Every Sri Lanka ship shall, unless exempted from registration, be registered under this Act.

(2) If a ship required by this Act to be registered is not so registered, such ship shall not be recognized as a Sri Lanka ship.

(3) A ship required by this Act to be registered may be detained until the master of the ship, if so required, produces the certificates of the registry of the ship.

(4) The Minister may prescribe the manner in which ships or classes of ships belonging to the Government of Sri Lanka or any statutory body therein may be registered under this Act.

Exemptions from registry.

32. The following ships are exempted from registration under this Act :—

- (a) any ship not exceeding fifteen tons net;
- (b) any boat licensed under the Boats Ordinance;
- (c) any ship referred to in any order made under section 46, to such extent as may be specified in such order.

Register book.

33. Every Registrar of Sri Lanka Ships shall keep a book (to be called the register book) and entries in that book shall be made in accordance with the following provisions:—

- (a) the property in a ship shall be divided into sixty-four shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship :

Provided, however, that the preceding provisions of this paragraph shall not affect the beneficial interest of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severally of any interest in a ship, or in any share therein in respect of which they are registered; and

(e) a body corporate may be registered as owner by its corporate name.

34. (1) An application for the registry of a ship shall be made— Application for registry.

- (a) in the case of natural persons, by the person applying to be registered as owner, or by some one or more persons so applying if more than one, or by his or their agent;
- (b) in the case of the Ceylon Shipping Corporation, or any Government-Sponsored Shipping Company or Corporation, by their agent; and
- (c) in the case of other bodies corporate, by their agent, and the authority of the agent shall be testified by writing, if appointed by natural persons, under the hands of the appointers, and if appointed by a body corporate, under the common seal of that body.

(2) The Registrar may demand proof of ownership to his satisfaction before proceeding with the registry of a ship.

35. (1) A person shall not be registered as the owner of a Sri Lanka ship or of a share therein until he, or in the case of the Ceylon Shipping Corporation, or a Government-Sponsored Shipping Company or Corporation or any other body corporate, the person authorized by this Act to make declarations on its behalf, has made and signed a declaration of ownership Declaration of ownership

prescribed form referring to the ship as described in the certificate of a Surveyor and containing the following particulars :—

- (a) a statement whether he is or is not a citizen of Sri Lanka, or in the case of the Ceylon Shipping Corporation, a statement specifying that it was incorporated under the Ceylon Shipping Corporation Act, or in the case of a Government-Sponsored Shipping Company or Corporation a statement setting out the interest of the Government and also that it has been incorporated in Sri Lanka, or in the case of any other body corporate a statement incorporating the Order made by the Minister;
- (b) a statement of the time when and the place where the ship was built, or if the ship is built outside Sri Lanka and the time and place of building is not known, a statement to that effect; and in addition in the case of a ship previously registered outside Sri Lanka a statement of the name by which she was so registered, or in the case of a ship condemned a statement of the time, place and court at and by which she was condemned ;
- (c) a statement of the name of the master and his citizenship;
- (d) a statement of the number of shares in the ship in respect of which he or the Ceylon Shipping Corporation, or a Government-Sponsored Shipping Company or Corporation, or any other body corporate, as the case may be, is entitled to be registered as owner ; and
- (e) a declaration that to the best of his knowledge and belief no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

(2) For the purpose of this section, the expression "beneficial interest" has the meaning assigned to it by section 106.

36. (1) A Sri Lanka ship shall not be described by any name, other than that by which she is for the time being registered. Ship's names.

(2) A change shall not be made in the name of a Sri Lanka ship except in the prescribed manner.

(3) A Registrar may, in accordance with the provisions of any regulations made under this Act, refuse the registry of any ship by the name by which it is proposed to register that ship if it is already the name of a registered Sri Lanka ship or a name so similar as is calculated or likely to deceive.

(4) If the registry of a ship by the name by which it is proposed to register that ship is refused by a Registrar, or if any requirements of the regulations are not complied with in the case of any ship which it is proposed to register, that ship shall not be registered under the name proposed, or until the regulations are complied with, as the case may be.

(5) If any person acts or suffers any other person under his control to act in contravention of this section or omits to do or suffers any other person under his control to omit to do, anything required by this section, the ship may be detained until the provisions of this section are complied with.

37. On the first registry of a ship the following evidence shall be produced in addition to the declaration of ownership :— Evidence on first registry.

(a) in the case of a Sri Lanka built ship, a builder's certificate, that is to say, a certificate signed by the builder of the ship and containing a true account of the proper denomination and of the tonnage of the ship as estimated by him and of the time when and the place where she was built and of the name of the person, if any, on whose account the ship was built and, if there has been any sale, the bill of sale under which the ship or a share therein has become vested in the applicant for registry ;

(b) in the case of a foreign built ship, the same evidence as in the case of a Sri Lanka built ship, unless the

declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him or that the builder's certificate cannot be procured, in which case there shall be registered only the bill of sale under which the ship, or a share therein, became vested in the applicant for registry ; and

(c) in the case of a ship condemned by a competent authority, the official copy of the condemnation.

38. (1) Every ship shall before registry be surveyed by a Surveyor and the tonnage of the ship ascertained in accordance with the provisions of any regulations made under this Part.

(2) The Surveyor shall grant a certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Registrar.

(3) The certificate of the Surveyor shall be delivered to the Registrar before registry.

39. (1) Every Sri Lanka ship shall before registry be marked permanently and conspicuously to the satisfaction of the Registrar as follows :—

(a) the name of the ship shall be marked on each of the bows of the ship, and the name of the ship and the name of the port of registry of such ship shall be marked on the stern of the ship, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth ;

(b) the official number and the number denoting the registered tonnage of the ship shall be cut in on the main beam of the ship ;

(c) a scale of feet denoting the draught of water of the ship shall be marked on each side of the stem and of the stern post of the ship in Roman capital letters or in figures, not less than six inches in length, the lower

line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Registrar approves.

(2) The Chief Registrar may exempt any class of ships from all or any of the requirements of this section.

(3) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) If any owner or master of a Sri Lanka ship neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces or obliterates or suffers any other person under his control to conceal, remove, alter, deface or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master or other person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees; and on a certificate from a Surveyor that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

40. As soon as the requirements of this Act preliminary to registry of a ship have been complied with, a Registrar shall enter in the register book the following particulars respecting the ship:—

(a) the name of the ship and the name of the port to which the ship belongs;

(b) the details comprised in the Surveyor's certificate;

Entry of particulars in register book.

Survey.

Marking of ship.

- (c) the particulars respecting the origin of the ship stated in the declaration of ownership ; and
- (d) the name and description of the registered owner or owners of the ship, and if there are more owners than one, the proportions in which they are interested in the ship.

Documents to be retained by Registrar.

41. On the registry of a ship a Registrar shall retain in his possession—

- (a) the Surveyor's certificate;
- (b) the builder's certificate ;
- (c) any bill of sale of the ship previously made;
- (d) the copy of the condemnation, if any ; and
- (e) ail declarations of ownership.

Application to Government ships.

42. The Minister may, by Notification published in the Gazette, direct that, subject to such rules as may be made in that behalf, ships belonging to the Government, other than ships of the Sri Lanka Navy, may be registered as Sri Lanka ships under this Act and thereupon this Act, subject to any exceptions and modifications which may be made in the Notification, either generally or with respect to any class of ships belonging to Government, shall apply to ships belonging to Government registered in accordance with the rules as they apply to Sri Lanka ships registered in the manner provided by this Act.

Port of registry.

43. The port at which a Sri Lanka ship is registered for the time being shall be deemed to be the port of registry of the ship and the port to which the ship belongs.

Regulations.

44. (1) The Minister may make regulations to carry out the purposes of this Part.

(2) In particular, but without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters;—

- (a) the manner in which the tonnage of any ship shall be ascertained,

whether for the purpose of registration or otherwise, including the mode of measurement;

- (b) the recognition, for the purpose of ascertaining the tonnage of any ship or for any other purpose, of any tonnage certificate granted in respect of any ship in any country outside Sri Lanka, the tonnage regulations of which are substantially the same as the tonnage regulations made under this Act, including the conditions and restrictions subject to which such recognition may be granted ;

- (c) the manner in which surveys of ships shall be conducted and the form of certificates of surveying officers ;

- (d) the form in which any document required by this Part shall be prepared and the particulars which it should contain;

- (e) the persons by whom and the authority before which any declaration required by this Part shall be made and the circumstances in which any such declaration may be waived and other evidence accepted;

- (f) the procedure for the registration, marking or alteration of the names of Sri Lanka ships;

- (g) the fees that may be levied under this Part and the manner in which such fees shall be collected ;

- (h) the manner in which Registrars and other authorities may exercise their powers under this Part or maintain their books and other registers;

- (i) the manner in which ships belonging to the Government, to which the provisions of this Act may be made applicable under section 42, may be registered;

- (j) any other matter which may be or is to be prescribed.

(3) The Director, with the consent of the Minister, may also for the purpose of carrying into effect this Part, give such instructions to his officers as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to himself of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Act as he thinks fit.

- (b) the time and place of her purchase and the names of the purchasers of the ship;
- (c) the name of the master of the ship;
- (d) the best particulars regarding her tonnage, build, and description of the ship which he is able to obtain,

and shall forward a copy of the certificate at the first convenient opportunity to the Chief Registrar.

Power of Chief Registrar to inquire into title of Sri Lanka ship to be registered as such.

45. (1) Where it appears to the Chief Registrar that there is any doubt as to the title of any ship registered as a Sri Lanka ship to be so registered, he may direct the Registrar of the port of registry of the ship to require evidence to his satisfaction that the ship is entitled to be registered as a Sri Lanka ship.

(2) Such a provisional certificate shall have the effect of a certificate of registry until the expiration of six months from the date of its issue or until the ship's arrival at a port where there is a Registrar, whichever is earlier, and if either of these events happens shall cease to have effect.

(2) If within such time, not less than thirty days as the Chief Registrar may fix, satisfactory evidence of the title of the ship to be registered is not given, the ship shall be subject to forfeiture.

49. (1) The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatsoever had or claimed by any owner, mortgagee or other person to, on or in the ship. Custody and use of certificate.

Exemption.

46. The Minister may, from time to time, by order and either generally or for any period stated in such order, and subject to such conditions as may be specified in such order, exempt from the provisions of this Part and any regulations made thereunder any person or class of persons or any ship or class or description of ships.

(2) No person, whether interested in a ship or not, who has in his possession or under his control the certificate of registry of the ship, shall refuse or omit without reasonable cause to deliver such certificate on demand to the person entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any Registrar, officer of customs, or other person entitled by law to require such delivery.

CHAPTER 2: CERTIFICATE OF REGISTRY

Certificate of registry.

47. On the completion of the registration of a Sri Lanka ship, a Registrar shall grant a certificate of registry comprising the particulars in respect of the ship entered in the register book.

(3) Any person refusing or omitting to deliver the certificate as required by subsection (2) may by order, be summoned by any Magistrate to appear before him and to be examined touching such refusal, and unless it is proved to the satisfaction of the Magistrate that there was reasonable cause for such refusal the offender shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Provisional certificate.

48. (1) If at any port outside Sri Lanka a ship becomes the property of a person qualified to own a Sri Lanka ship, a Sri Lanka Consular Officer or such other person as may be appointed by the Minister may grant to the master of the ship on his application, a provisional certificate, stating:—

(4) If the person so refusing is proved to have absconded so that the warrant of a Magistrate or process of a Court cannot be

- (a) the name of the ship ;

served on him, or if he persists in not delivering up the certificate, the Magistrate shall certify the fact and the same proceedings may then be taken as in the case of a certificate mislaid, lost or destroyed, or as near thereto as circumstances permit,

Improper use of certificate.

50. If the master or owner of a Sri Lanka ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of the ship he shall, in respect of each offence, be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine, and the ship shall be subject to forfeiture under this Act.

Grant of new certificate.

51. The Registrar of the port of registry of a Sri Lanka ship may, with the approval of the Chief Registrar, and on the delivery to him of the certificate of registry of a ship, grant a new certificate in lieu thereof.

Provision for loss of certificate.

52. In the event of the certificate of registry of a Sri Lanka ship being mislaid, lost or destroyed, the Registrar of the port of registry of the ship shall grant a certificate of registry in lieu of the original certificate of such ship.

Change of master.

53. Where the master of a registered Sri Lanka ship is changed a Registrar or, if there is none, the Sri Lanka Consular officer at or for the port or the nearest Sri Lanka Consular officer to the port where the change occurs shall endorse and sign on the certificate of registry a memorandum of the change, and, in the case of a Consular officer, shall forthwith report the change to the Chief Registrar; and any officer of customs at any port in Sri Lanka may refuse to admit any person to do any act there as master of a Sri Lanka ship unless his name is inserted in or endorsed on the certificate of registry of the ship as the last appointed master of such ship.

Change of owner.

54. (1) Whenever a change occurs in the registered ownership of a ship, the change of ownership shall be endorsed on the certificate of registry of the ship either by—

- (a) the Registrar of the ship's port of registry; or

- (b) the Registrar of any port at which the ship arrives who has been advised of the change by the Registrar of the ship's port of registry.

(2) The master shall, for the purpose of such endorsement by the Registrar of the ship's port of registry, deliver the certificate of registry to the Registrar—

- (a) forthwith after the change, if the change occurs when the ship is at the port of registry of such ship; and

- (b) if the change occurs during the absence of the ship from the port of registry thereof, and the endorsement under this section is not made before the return of such ship, then, upon the first return of such ship to that port.

(3) The Registrar of any port, not being the ship's port of registry, who is required to make an endorsement under this section may for that purpose require the master of the ship to deliver to him the ship's certificate of registry so that the ship be not thereby detained, and the master shall deliver the same accordingly.

(4) If the master fails to deliver to the Registrar the certificate of registry as required by this section he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

55. (1) In the event of a registered ship being either actually or constructively lost, taken by the enemy, burnt, or broken up or ceasing, by reason of a transfer to persons not qualified to be owners of a Sri Lanka ship, or otherwise, to be a Sri Lanka ship, every owner of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to a Registrar, give notice thereof to the Registrar at the port of registry of such ship.

Delivery of certificate of ship lost or ceasing to be Sri Lanka ship.

(2) A Registrar shall, on receiving any notice given to him under subsection (1), make an entry thereof in the register book, and the registry of the ship in that book

shall be considered as closed except in so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein.

(3) In any event referred to in subsection (1) (except where the ship's certificate of registry is lost or destroyed) the master of the ship shall—

- (a) if the event occurs in port, immediately;
- (b) if the event occurs elsewhere, then, within ten days after his arrival in port,

deliver the certificate to the Registrar or, if there is none, to the Sri Lanka Consular officer there; and the Registrar, if he is not himself the Registrar of the port of registry, or, as the case may be, the Sri Lanka Consular officer, shall forthwith forward the certificate delivered to him to the Registrar of the port of registry of such ship.

(4) Any owner or master of a ship who fails, without reasonable cause, to comply with this section, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

CHAPTER 3; TRANSFER OF OWNERSHIP

56. (1) A registered ship or a share therein (when disposed of to a person qualified to own a Sri Lanka ship) shall be transferred by a bill of sale.

(2) The bill of sale shall—

- (a) be in the prescribed form ;
- (b) contain such description of the ship as is contained in the certificate of registry; and
- (c) be executed by the transferor in the presence of, and be attested by, two witnesses.

57. Where a registered ship or a share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a body

corporate the person authorized by this Act to make declarations on behalf of the body corporate, has made and signed a declaration (in this Act referred to as a " declaration of transfer ") referring to the ship and containing—

- (a) a statement of the qualification of the transferee to own a Sri Lanka ship or, if the transferee is a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own a Sri Lanka ship ; and
- (b) a declaration that, to the best of his knowledge and belief, no unqualified person or body of persons is entitled as owner to any legal or beneficial interest in the ship or any share therein.

58. (1) Every bill of sale for the transfer of a registered ship or of a share therein, when duly executed, shall be produced to the Registrar of the port of registry of the ship with the declaration of transfer, and the Registrar—

- (a) shall thereupon enter in the register book the name of the transferee as owner of the ship or share ; and
- (b) shall endorse on the bill of sale the fact of that entry having been made, with the day, date and hour thereof.

(2) Bills of sale of a ship or of a share therein shall be entered in the register book in the order of their production to the Registrar.

59. (1) Where the property in a registered ship or share therein is transmitted to a person qualified to own a Sri Lanka ship on the bankruptcy or death of any registered owner, or by any lawful means, other than by a transfer under this Part,—

- (a) that person shall authenticate the transmission by making and signing a declaration (in this Act referred to as a " declaration of transmission ") identifying the ship and containing the several statements hereinbefore required to be contained in a

Registry of transfer-

Transmission of property in ship on bankruptcy, death, &c.

Transfer of ship or share.

Declaration of transfer.

declaration of transfer, or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted ;

(b) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in Courts of Justice as proof of the title of persons claiming under a bankruptcy ; and

(c) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation, or an official extract therefrom.

(2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person entitled under the transmission as owner of the ship or share the property in which has been transmitted and, where there is more than one such person, shall enter the names of all those persons, but those persons, however numerous, shall for the purpose of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale on transmission to an unqualified person.

60. (1) Where the property in a registered ship or share therein is transmitted on bankruptcy, death or otherwise to a person not qualified to own a Sri Lanka ship the High Court may, on application by or on behalf of the unqualified person, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the Court may direct.

(2) The High Court may require any evidence in support of the application as it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every such application for sale must be made within four weeks after the

occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the High Court may allow.

(4) If such an application is not made within the time aforesaid, or if the High Court refuses an order for sale, the ship or share transmitted shall thereupon be subject to forfeiture under this Act.

(5) In this section " High Court " includes the High Court having admiralty jurisdiction under section 13 of the Judicature Act.

61. (1) Where any Court, whether under the preceding sections of this Act or otherwise, orders the sale of any ship or any share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share.

Transfer of ship or sale by order of Court.

(2) On having been named by the Court, such person shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof.

(3) Every Registrar shall obey the requisition of the person so named by the Court in respect of any such transfer to the same extent as if such person were the registered owner.

62. (1) The High Court may if it thinks fit (without prejudice to the exercise of any other power of the Court), on the application of any interested person, make an order prohibiting for a specified time any dealing with a ship or any share therein.

Power of court to prohibit transfer

(2) The High Court may make an order under subsection (1) on any terms or conditions it thinks just, or may refuse to make the order or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.

(3) Every Registrar, without being made a party to the proceedings, shall on being served with the order of the High Court or an official copy thereof obey the same.

CHAPTER 4: MORTGAGES

and not according to the date of each mortgage itself.

Rules of English law applicable except where they are inconsistent or in conflict with this Act.

63. The rules of law applicable in the case of mortgages of ships shall be the rules of law applicable in that behalf in the United Kingdom, except in so far as they are inconsistent or in conflict with the express provisions of this Act.

67. Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be the owner thereof.

Mortgagee not treated as owner.

Mortgage of ship or share.

64. (1) A registered ship, or a share therein, may be made a security for a loan or other valuable consideration, and the instrument creating such security (in this Chapter referred to as a " mortgage ") shall be in the prescribed form, or as near thereto as circumstances permit.

68. (1) Every registered mortgagee shall. subject to subsection (2), have power—

Mortgagee to have power of sale.

(2) On production to him of an instrument of mortgage, the Registrar of the ship's port of registry shall—

- (a) record such instrument in the register book;
(b) when there are more mortgages than one, record them in the order in time in which they are produced to him for that purpose;
(c) by memorandum under his hand notify on each mortgage that it has been recorded by him, stating the day, date and hour of that record.

(a) absolutely to dispose of the ship or share in respect of which he is registered ; and

(b) to give effectual receipts for the purchase money.

(2) Where there are more persons than one registered as mortgagees of the same ship or share a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Entry of discharge of mortgage.

65. (1) Where a registered mortgage is discharged the Registrar shall, on production of the mortgage deed with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged.

69. A registered mortgage of a ship or share shall not be affected by any act of bankruptcy committed by the mortgagor after the date of the record of the mortgage, notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order or disposition, or was reputed owner thereof; and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the bankrupt, or any trustee or assignee on their behalf.

Mortgage not affected by bankruptcy.

(2) On the entry referred to in subsection (1) being made, the estate (if any) which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any) it would have vested if the mortgage had not been made.

70. (1) A registered mortgage of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in the prescribed form, or as near thereto as circumstances permit.

Transfer of mortgages.

Priority of mortgages.

66. If there are more mortgages than one registered in respect of the same ship or share, the mortgages shall, notwithstanding any express, implied or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register book,

(2) On production to him of an instrument of transfer, the Registrar of the ship's port of registry shall—

- (a) record such instrument by entering in the register book the name of the transferee as mortgagee of the ship or share; and

(b) by memorandum under his hand notify on the instrument of transfer that it has been recorded by him, stating the day, date and hour of that record.

..''

(3) The person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

71. (1) Where the interest of a mortgagee in a ship or share is transmitted by bankruptcy, death, or by any lawful means, other than by a transfer under this Part, the transmission shall—

(a) be authenticated by a declaration of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted ; and

(b) be accompanied by the like evidence as is by this Part required in the case of a corresponding transmission of the ownership of a ship or share.

(2) The Registrar, on the receipt of the declaration and the production of the evidence referred to in subsection (1), shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share.

72. Where a registered owner of a ship or share wishes to dispose by way of mortgage or sale of such ship or share at any place outside Sri Lanka, he may apply to the Registrar of the ship's port of registry, and the Registrar shall thereupon enable him to do so by granting a certificate of mortgage or a certificate of sale.

73. Before a certificate of mortgage or sale is granted, the applicant shall state to the Registrar, and the Registrar shall enter in the register book, the following particulars :—

(a) the name of the person by whom the power mentioned in the certificate is to be exercised ;

(b) in the case of a mortgage, the maximum amount of charge to be created, if it is intended to fix any such maximum;

(c) in the case of a sale, the minimum price at which a sale is to be made, if it is intended to fix any such minimum;

(d) the place where the power is to be exercised or, if no place is specified, a declaration that it may be exercised anywhere, subject to the provisions of this Act; and

(e) the limit of time within which the power may be exercised.

74. A certificate of mortgage or sale, as is referred to in section 72, shall not be granted so as to authorize any mortgage or sale to be made—

(a) at any place within Sri Lanka; or

(b) by any person not named in the certificate.

75. A certificate of mortgage and a certificate of sale shall contain—

(a) a statement of the several particulars directed by this Act to be entered in the register book on the application for the certificate ; and

(b) an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given.

76. The following rules shall be observed as to certificates of mortgage :—

(a) the power shall be exercised in conformity with the directions contained in the certificate;

(b) every mortgage made thereunder shall be registered by the endorsement of a record thereof on the certificate by a Registrar or Sri Lanka Consular officer;

Restrictions on certificates of mortgage and sale.

Contents of certificates of mortgage and sale.

Rules as to certificates of mortgage.

Transmission of interest in mortgage on bankruptcy, &c.

Powers of mortgage and sale to be exercised outside Sri Lanka may be conferred by certificate.

Requisites for certificates of mortgage and sale.

(c) a mortgage made in good faith thereunder shall not be impeached by reason of the person by whom the power was given dying before the making of the mortgage ;

(d) whenever the certificate contains a specification of the place at which, and a limit of lime not exceeding twelve months within which, the power is to be exercised, a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given;

(e) every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and, if there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied or constructive notice, be entitled one before the other according to the date at which each mortgage is registered on the certificate, and not according to the date of the mortgage ;

(f) subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate ;

(g) the discharge of any mortgage so registered on the certificate may be endorsed on the certificate by any Registrar or Sri Lanka Consular officer, on the production of such evidence as is by this Act required to be produced to the Registrar on the entry of the discharge of a mortgage in the register book ; and on that endorsement being made the interest, if any, which passed to the mortgagee shall vest in the same

person or persons in whom it would (having regard to intervening acts and circumstances, if any) have vested, if the mortgage had not been made;

(h) on the delivery of any certificate of mortgage to the Registrar by whom it was granted he shall, after recording in the register book, in such manner as to preserve its priority, any unsatisfied mortgage registered thereon, cancel the certificate, and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void to all intents.

77. The following rules shall be observed as to certificates of sale :— Rules as to certificates of sale.

(a) a certificate of sale shall not be granted except for the sale of an entire ship;

(b) the power shall be exercised in conformity with the directions contained in the certificate;

(c) a sale made in good faith thereunder to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying before the making of such sale;

(d) wherever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given;

(e) a transfer made to a person qualified to be the owner of a Sri Lanka ship shall be by a bill of sale in accordance with this Act;

(f) if a ship is sold to a person qualified to be the owner of a Sri Lanka ship, the ship shall be registered anew;

but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book;

- (g) before registry anew there shall be produced to the Registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship ;
- (h) the last-mentioned Registrar shall retain the certificates of sale and registry and, after having endorsed on both of those instruments an entry of the fact of a sale having taken place, shall forward them to the Registrar of the port appearing thereon to be the former port of registry of the ship, and the last-mentioned Registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein ;
- (i) on such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee ;
- (j) if a ship is sold to a person not qualified to be the owner of a Sri Lanka ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry shall be produced to a Registrar or Sri Lanka Consular officer, and that Registrar or officer shall retain the certificates of sale and registry and, having endorsed thereon the fact of that ship having been sold to a person not qualified to be the owner of a Sri Lanka ship, shall forward the certificates to the Registrar of the port appearing on the certificate of registry to be the port of registry of that ship; and

that Registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein;

- (k) if, on a sale being made to a person not qualified to be the owner of a Sri Lanka ship, default is made in the production of such certificates as are mentioned in the last preceding rule, that person shall be considered by the law of Sri Lanka as having acquired no title to or interest in the ship ; and further, the person upon whose application the certificate of sale was granted, and the person exercising the power, shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees;
- (l) if no sale is made in conformity with the certificate of sale, that certificate shall be delivered to the Registrar by whom the same was granted; and he shall thereupon cancel it and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void for all intents and purposes.

78. On proof at any time to the satisfaction of the Chief Registrar that a certificate of mortgage or sale is lost or destroyed, or so obliterated as to be useless, and that the powers thereby given have never been exercised or, if they have been exercised, then, on proof of the several matters and things that have been done thereunder, the Registrar may, with the sanction of the Chief Registrar, as circumstances require either issue a new certificate or direct such entries to be made in the register books, or such other things to be done, as might have been made or done if the loss, destruction or obliteration had not taken place.

Power of Chief Registrar in case of loss of certificate.

79. (1) The registered owner of any ship or share therein in respect of which a certificate of mortgage or sale has been

Revocation of certificates of mortgage and sale

granted, specifying the places where the power thereby given is to be exercised, may, by an instrument under his hand, authorize the Registrar by whom the certificate was granted to give notice to the Registrar or Sri Lanka Consular officer at every such place that the certificate is revoked.

(2) Notice shall thereupon be given accordingly, and shall be recorded by the Registrar or Sri Lanka Consular officer receiving it, and after it is recorded the certificate shall be deemed to be revoked and of no effect so far as respects any mortgage or sale to be thereafter made at that place.

(3) After a notice has been recorded under subsection (2), it shall be exhibited to every person applying for the purpose of effecting or obtaining a mortgage or transfer under the certificate.

(4) A Registrar or Sri Lanka Consular officer shall, on recording any such notice, state to the Registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

CHAPTER 5: MARITIME LIENS

Application.

80. The provisions of this Chapter shall apply to all sea-going ships registered under this Part.

Restriction on cancellation of registration,

81. Subject to the provisions of sections 92 and 93, the Registrar, or any Sri Lanka Consular officer at any port where the ship may be, shall not cancel the registration of a ship without the written consent of the holder of any mortgage or other preferential right in such ship, registered under Chapter 4.

Restriction on registration.

82. A ship which is or has been registered in the territory of any State which has ratified or acceded to the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages concluded at Brussels on 27th May, 1967, shall not be registered under this Part unless—

- (a) a certificate has been issued by such State to the effect that the ship has been de-registered ; or

- (b) a certificate has been issued by such State to the effect that the ship will be de-registered on the day when such new registration is effected.

83. Maritime liens of a ship shall arise out of— Maritime liens.

- (a) wages and other sums due to the master, officers and other members of the ship's complement, in respect of their employment on the ship ;
- (b) port, canal and other waterway dues and pilotage dues;
- (c) claims against the owner (which term shall for the purposes of this section also include the charterer, manager or operator of the ship) in respect of loss of life or personal injury occurring, whether on land or water, in direct connexion with the operation of the ship ;
- (d) claims against the owner, based on a wrongful act and not capable of being based on contract, in respect of loss of or damage to property occurring, whether on land or on water, in direct connexion with the operation of the ship ;
- (e) claims for salvage, wreck removal and contribution in general average.

84. The maritime liens set out in section 83 shall take priority over mortgages and preferential rights registered under Chapter 4, or arising under the State Debtors Ordinance or the Insolvency Ordinance, and no other claim shall take priority over them, except as is provided in section 86. Priority of liens

85. The maritime liens set out in section 83— Order of priority of liens.

- (a) shall rank in the order in which they are set down in that section, provided however that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to such liens were performed ;

(b) shall, in the case of claims arising under paragraphs (a), (b), (c) and (d) of section 83. rank *pari passu* among themselves;

(c) shall, in the case of claims arising under paragraph (e) of section 83, rank in the inverse order of the time when the claim secured thereby accrued; and for this purpose claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated, and claims for general average shall be deemed to have accrued on the day on which the general average act was performed.

Rights of shipbuilders and ship repairers.

86. Where a preferential right arises, pursuant to the provisions of the State Debtors Ordinance or the Insolvency Ordinance in respect of a ship in the possession of—

(a) a shipbuilder, in order to secure claims for the building of the ship, or

(b) a ship repairer, in order to secure claims for the repair of the ship, effected during such possession,

such right shall be postponed to all the maritime liens set out in section 83 but may take precedence of any mortgage or other preferential right registered under Chapter 4, so long as the ship is in the possession of the shipbuilder or ship repairer, as the case may be.

Overriding nature of maritime liens.

87. The maritime liens set out in section 83—

(a) shall arise whether the claims secured by such liens are against the owner, charterer, manager or operator of the ship;

(b) shall (subject to the provisions of section 92) follow the ship, notwithstanding any change of ownership or of registration.

Saving in relation to claims arising from radioactive products, &c.

88. A maritime lien shall not attach to a ship to secure a claim under paragraph (c) or (d) of section 83 where such claim arises out of or results from the radioactive properties (or a combination of the

radioactive properties with toxic, explosive or other hazardous properties) of nuclear fuel or of radioactive products or waste.

89. The maritime liens relating to a ship set out in section 83 shall be barred by prescription after a period of one year from the time when the claims secured thereby arose unless, prior to the expiry of such period—

Limitation period.

(a) the ship has been arrested ; and

(b) such arrest has led to a forced sale.

90. The one-year period of prescription referred to in section 89 shall not be subject to interruption or suspension, pursuant to the provisions of any written law for the time being in force relating to prescription or the limitation of actions, but any period in which the person in whose favour a maritime lien exists is legally prevented from arresting the ship shall constitute an interruption of such period.

When limitation period is interrupted.

91. Prior to the forced sale of a ship, pursuant to the provisions of the Civil Procedure Code or any other law for the time being in force relating to the sale of property in admiralty proceedings, the executing officer shall give or cause to be given thirty days' written notice of the time and place of such sale to—

Notice of sale to be given to mortgagees, Registrar, &c.

(a) all holders of mortgages and other preferential rights registered under Chapter 4 which have not been issued to bearer;

(b) such holders of such mortgages and rights as have been issued to bearer, whose claims have been notified to such officer;

(c) such holders of maritime liens set out in section 83, whose claims have been notified to such officer;

(d) the Registrar of the port of registration of the ship.

92. In the event of the forced sale of a ship in accordance with the provisions of the Civil Procedure Code or any other law for the time being in force relating to the

Effect of sale on mortgages, &c

sale of properly in admiralty proceedings, and this Chapter—

- (a) all mortgages and other preferential rights registered under Chapter 4 (except those assumed by the purchaser with the consent of the holders thereof), and
- (b) all liens and other encumbrances of whatsoever nature (but not including a charter party or contract for the use of the ship),

shall cease to attach to the ship.

Disposition of proceeds of sale.

93. The costs awarded by the Court and arising out of the arrest and subsequent sale of a ship and the distribution of the proceeds thereof shall be paid first out of the proceeds of such sale, and the balance shall be distributed among—

- (a) the holders of maritime Hens under section 83;
- (b) the holders of preferential rights under section 86 ; and
- (c) the holders of mortgages and other preferential rights registered under Chapter 4,

in accordance with the provisions of this Chapter and to the extent necessary to satisfy their claims.

When a certificate that a ship is sold free of mortgages, liens, &c., shall issue.

94. When a ship, registered in the territory of any State which has ratified or acceded to the International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages concluded at Brussels on 27th May, 1967, has been the subject of a forced sale in Sri Lanka, the executing officer shall, at the request of the purchaser, and on being satisfied that the provisions of this Chapter have been complied with, issue a certificate that the ship is sold free of all mortgages, liens and other rights (except those assumed by the purchaser), provided that the proceeds of such forced sale have been deposited with the authority competent to distribute such proceeds to the persons entitled thereto.

Action by Registrar on receipt of certificate.

95. On receiving from the competent authority of any State referred to in section 94 any certificate of the nature referred to in such section and relating to any ship

registered under this Act, the Registrar shall delete from the register all mortgages and other preferential rights relating to such ship (except those assumed by the purchaser) or, as the case may be, issue a certificate of de-registration for the purpose of re-registration.

CHAPTER 6: ALTERATIONS IN SHIPS AND REGISTRY

96. (1) When a registered Sri Lanka ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then,—

Registry of alterations

- (a) if the alteration is made at any port having a Registrar, that Registrar; or
- (b) if the alteration is made elsewhere, the Registrar of the first port having a Registrar at which the ship arrives after the alteration,

shall, on application being made to him and on receipt of a certificate from the proper Surveyor stating the particulars of the alteration, either—

- (i) cause the alteration to be registered; or
- (ii) direct that the ship be registered anew.

(2) If default is made in registering anew a ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees and, in addition, to a fine of one hundred rupees for every day during which the offence continues after conviction.

97. (1) For the purpose of the registry of an alteration in a Sri Lanka ship, the ship's certificate shall be produced to the Registrar, and the Registrar shall either—

Regulations for registry of alterations.

- (a) retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered ; or

(b) endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration so made and the fact of the new certificate having been granted or an endorsement having been made shall be entered by the Registrar of the ship's port of registry in his register book; and for that purpose the Registrar to whom the application for the registry of the alteration has been made (if he is not the Registrar of the ship's port of registry) shall forthwith report to the last-mentioned Registrar the particulars and facts as aforesaid accompanied (where a new certificate of registry has been granted) by the old certificate of registry.

98. Where the ownership of any Sri Lanka ship is changed, the Registrar of the port at which the ship is registered may, on the application of the owner of the ship, register the ship anew, although registration anew is not required under this Act.

99. (1) Where a ship is to be registered anew, the Registrar—

- (a) shall proceed as in the case of first registry; and
- (b) on the delivery up to him of the existing certificate of registry and on the other requisites to registry (or, in the case of a change of ownership, such of them as he thinks material) being duly complied with, shall make such registry anew, and grant a certificate accordingly.

(2) When a ship is registered anew—

- (a) her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon; but
- (b) the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the new register, and the registry anew shall not in any way affect the rights of any of those persons.

100. (1) Where any Registrar, not being the Registrar of the ship's port of registry, on an application as to an alteration in a ship, directs the ship to be registered anew, he shall either grant a provisional certificate describing the ship as altered or provisionally endorse the particulars of the alteration on the existing certificate.

Provisional certificate and endorsement where a ship is to be registered anew.

(2) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in Sri Lanka, be delivered to the Registrar thereof and that Registrar shall cause the ship to be registered anew.

(3) The Registrar granting a provisional certificate or provisionally endorsing a certificate under this section shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the Registrar of the ship's port of registry containing a similar statement as the certificate or endorsement,

101. (1) The registry of any Sri Lanka ship may be transferred from one port to another on the application to the Registrar of the existing port of registry of the ship, made by declaration in writing of all persons appearing on the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

Transfer of registry

(2) On any application made under subsection (1), the Registrar shall transmit notice thereof to the Registrar of the intended port of registry with—

- (a) a copy of all documents relating to the ship; and
- (b) the names of all persons appearing on the register to be interested therein as owners or mortgagees.

(3) The ship's certificate of registry shall be delivered up to the Registrar either of the existing or intended port of registry and, if

Registry anew on change of ownership.

Procedure for registry anew.

delivered up to the former, shall be transmitted to the Registrar of the intended port of registry.

(4) On the receipt of the above documents the Registrar of the intended port of registry shall enter in his register book all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry, and thereafter such ship shall be considered as registered at the new port of registry, and the name of the ship's new port of registry shall be substituted for the name of her former port of registry on the ship's stern.

Restriction on re-registration of abandoned ships.

102. Where a ship has ceased to be registered as a Sri Lanka ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a Sri Lanka ship, the ship shall not be re-registered until such ship has, at the expense of the applicant for registration, been surveyed by a Surveyor and certified by him to be seaworthy,

CHAPTER 7 : MISCELLANEOUS PROVISIONS

Provision for case of incapacity.

103. Where, by reason of infancy, lunacy or any other cause, any person interested in any ship, or any share therein, is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connexion with the registry of the ship or share, the guardian, if any, of that person, or if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on behalf of the incapable person ; and all things done by the substitute shall be as effectual as if done by the person for whom he is substituted.

Notice of trusts not received.

104. No notice of any trust, express, implied or constructive, shall be entered in the register book or be receivable by the Registrar, and (subject to any rights and powers appearing by the register book to be vested in any other person) the registered

owner of a ship or of a share therein shall have power absolutely to dispose in manner by this Act provided of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

Liability of owners.

105. Where any person has any beneficial interest (otherwise than by way of mortgage) in any ship or share in a ship registered in the name of some other person or owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.

Definition of beneficial interest.

106. The expression "beneficial interest", used in sections 35 and 105, includes interests arising under contract, and other equitable interests; and the intention of this Act is that, without prejudice to—

(a) the provisions of this Act for the granting of notice of trust from being entered in the register book or received by the Registrar; or

(b) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees; or

(c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Sri Lanka ships,

interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interests therein, in the same manner as in respect of any other personal property.

Managing owner.&c.

107. (1) The name and address of the managing owner for the time being of every ship registered at a port in Sri Lanka shall be registered at the shipping office of that port.

(2) Where there is no managing owner, there shall be so registered the name of the ship's husband or other person to whom the

management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

(3) If default is made in complying with this section the owner or, if there are more owners than one each owner, shall be guilty of an offence and on conviction thereof shall be liable, in proportion to his interest in the ship, to a fine not exceeding in the whole two thousand rupees each time the ship leaves any port in Sri Lanka.

108. When, under this Part, any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to a Registrar, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Chief Registrar, on the production of such other evidence, and subject to such terms as he may think fit, dispense with the declaration or evidence.

109. (1) Declarations required by this Part shall be made before—

- (a) a Registrar;
- (b) a Magistrate or Justice of the Peace;
- (c) any Master Attendant* ; or
- (d) a Sri Lanka Consular officer.

(2) Declarations required by this Part may be made on behalf of a body corporate—

- (a) by the secretary; or
- (b) by any other officer of the body corporate, authorized by that body for the purpose.

110. Every Registrar at a port in Sri Lanka shall, on or before the first day of February and the first day of August in

* In " specified ports " the functions of the Master Attendant are performed by the Sri Lanka Ports Authority- Sec sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance.

every year, or on such other days as the Minister may prescribe, transmit to the Chief Registrar—

- (a) a full return in such form as the Chief Registrar may require, of all registries, transfers, transmissions, mortgages and other dealings with ships which have been registered by or communicated to him in his capacity as Registrar, and of the names of the persons concerned in the same, and of such other particulars as may be required by the Chief Registrar; and
- (b) a list of all Sri Lanka ships registered at the port, and also of all such ships whose registries have been transferred or cancelled at that port since the last preceding return.

111. (1) Any person may, on payment of a fee of one rupee, or such other fee as the Minister may prescribe, on application to the Registrar at any reasonable time during the hours of his official attendance, inspect any register book.

Evidence of register book, certificate of registry and other documents.

(2) The following documents shall be admissible in evidence in the manner provided by this Act :—

- (a) any register book under this Part, on its production from the custody of the Registrar or other person having the lawful custody thereof;
- (b) a certificate of registry under this Act, purporting to be signed by a Registrar or other proper officer;
- (c) an endorsement on a certificate of registry purporting to be signed by a Registrar or other proper officer;
- (d) every declaration made in pursuance of this Part in respect of a Sri Lanka ship.

112. Any person who—

- (a) forges or fraudulently alters ;

Forgery of documents.

Power to dispense with declarations, &c.

Mode of making declarations.

Returns to be made by Registrars.

(b) assists in forging or fraudulently altering; or

(c) procures to be forged or fraudulently altered,

any of the following documents, namely, any register book, builder's certificate, Surveyor's certificate, certificate of registry, declaration, bill of lading, instrument of mortgage or certificate of sale or mortgage under this Part, or any entry or endorsement required by this Part to be made in or on any such document, shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such fine and imprisonment.

113. (1) Any person who, in the case of any declaration made in the presence of or produced to a Registrar under this Part, or in any document or other evidence produced to such Registrar,—

(a) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of or the interest existing in any ship or share in a ship ; or

(b) utters, produces or makes use of any declaration or document containing any such false statement, knowing such declaration or document to be false,

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

(2) Any person who wilfully makes a false declaration concerning the qualification of himself or of any other natural person or of any body corporate to own a Sri Lanka ship shall (without prejudice to subsection (3)) be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

(3) Any ship or share which is the subject of any false declaration referred to in subsection (2) shall be subject to forfeiture under this Act, to the extent of the interest of the person making the declaration, unless it is proved that the declaration was made without the authority of any person or body corporate on behalf of whom the declaration was made.

CHAPTER 8: RIGHTS AND OBLIGATIONS OF SRI LANKA AND OTHER SHIPS

114. (1) Subject to the provisions of subsection (3) and of—

Trade in Sri Lanka waters.

(a) any regulations made or exemptions given under this Act; or

(b) any treaty or agreement with any foreign Government.

only Sri Lanka ships may trade in Sri Lanka waters.

(2) A person or body corporate not qualified to own a Sri Lanka ship as provided by section 30 shall not charter or otherwise engage any Sri Lanka ship for trade in Sri Lanka waters, except under and in accordance with such conditions as the Minister may direct or prescribe.

(3) The provisions of this section shall not apply to any boat licensed under the Boats Ordinance.

(4) The master, owner or agent of any ship contravening subsection (1), and any person or body contravening subsection (2), shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding ten thousand rupees, and in addition any ship involved in such offence, shall be liable to be detained.

(5) In this section, " trade in Sri Lanka waters " means—

(a) the transport of passengers or goods; or

(b) towing,

from one port or place in Sri Lanka waters to another such port or place, for profit or reward.

False declarations.

National character of ship to be declared on clearance.

115. (1) An officer of customs shall not grant a clearance for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that such ship belongs, and that officer shall thereupon write such name on the clearance.

(2) If a ship attempts to go to sea without such clearance such ship may be detained until the declaration is made.

Penalty for unduty assuming Sri Lanka character.

116. (1) If a person uses the Sri Lanka flag and assumes the Sri Lanka national character on board a ship owned in whole or in part by any person not qualified to own a Sri Lanka ship, for the purpose of making the ship appear to be a Sri Lanka ship, the ship shall be subject to forfeiture under this Act, unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(2) In any proceeding for enforcing any such forfeiture, the burden of proving a title to use the Sri Lanka flag and assume the Sri Lanka national character shall lie upon the person using and assuming the same.

Penalty for concealment of Sri Lanka or assumption of foreign character.

117. (1) If the master or owner of a Sri Lanka ship does anything or permits anything to be done, or carries or permits to be carried any papers or documents with intent—

- (a) to conceal the Sri Lanka character of the ship from any person entitled by the law of Sri Lanka to inquire into such matter;
- (b) to assume a foreign character; or
- (c) to deceive any person so entitled as aforesaid,

the ship shall be subject to forfeiture under this Act.

(2) If the master of such ship commits or is privy to the commission of the offence in subsection (1) he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding one year, or to a fine not exceeding two thousand rupees, or to both such imprisonment and fine.

118. If an unqualified person acquires as owner (otherwise than by such transmission as is hereinbefore provided) any interest, either legal or beneficial, in a ship using a Sri Lanka flag and assuming a Sri Lanka character, that interest shall be subject to forfeiture under this Act.

Penalty for acquiring ownership if unqualified.

119. Where it is declared by this Act that a Sri Lanka ship shall not be recognized as a Sri Lanka ship, that ship shall not be entitled—

Liabilities of ship not recognized as Sri Lanka ship.

- (a) to any benefits, privileges, advantage or protection usually enjoyed by Sri Lanka ships; or
- (b) to use the Sri Lanka flag or assume the Sri Lanka national character,

but so far as regards the payment of dues, the liability to fines and forfeiture and the punishment of offences committed on board such ship, or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if the ship were a recognized Sri Lanka ship.

120. (1) The Minister may, by Notification published in the Gazette, declare what shall be the proper national colours for all ships registered under this Act, and for all ships which are not registered but which are owned by the Government or by any local authority or by any body corporate established by or under any law for the time being in force in Sri Lanka or by a citizen of Sri Lanka; and different colours may be so declared for different classes of ships.

National colours

(2) If any distinctive national colours, other than the Sri Lanka national colours declared under subsection (1), are hoisted on board any Sri Lanka ship, the owner of the ship, unless he proves that they were hoisted without his knowledge or consent, and the master of the ship and any person hoisting such colours shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five thousand rupees.

(3) Any officer of the Sri Lanka Navy or any officer of customs, or any Sri Lanka Consular officer, or a Shipping Officer, may

board any ship on which any colours are hoisted contrary to this Act and seize and take away the colours which shall be forfeited to the Government.

121. (1) A Sri Lanka ship shall hoist the Sri Lanka national ensign—

- (a) on a signal being made to the ship to such effect by a ship of the Sri Lanka Navy or by a ship in the service of the Government and carrying out the provisions of this Act;
- (b) on entering or leaving any Sri Lanka or foreign port;
- (c) when passing a warship of the Sri Lanka Navy or any foreign navy; or
- (d) while in a Sri Lanka port, from sunrise to sunset.

(2) If default is made on board any such ship in complying with the provisions of this section, the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

(3) This section shall not apply to fishing boats exclusively employed in fishing.

CHAPTER 9: FORFEITURE OF SHIP

122. (i) Where any ship has, either wholly or as to any share therein, become subject to forfeiture under this Part—

- (a) the Director;
- (b) any Master Attendant* ;
- (c) any Shipping Officer;
- (d) any officer of customs;
- (e) any officer in the armed forces of Sri Lanka;
- (f) any person specially or generally authorized by the Minister to detain a ship

* In " specified ports " the functions of the Master Attendant are performed by the Sri Lanka Ports Authority — See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance.

may seize and detain the ship in accordance with the provisions of section 294, and bring the ship for adjudication before the High Court having admiralty jurisdiction under section 13 of the Judicature Act.

(2) The High Court may thereupon—

- (a) adjudge the ship with her tackle, apparel and furniture to be forfeited to the Government;
- (b) make such order in the case as to the High Court seems just; and
- (c) award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the High Court thinks fit.

123. Any officer referred to in subsection (1) of section 122 shall not be responsible either civilly or criminally to any person in respect of any seizure or detention made under such section, notwithstanding that the ship has not been brought in for adjudication or, if so brought in, is declared not liable to forfeiture, if it is shown to the satisfaction of the Court before whom any trial relating to such ship or seizure or detention is held that there were reasonable grounds for such seizure or detention ; but if no such grounds are shown the Court may award costs and damages to any party aggrieved, and make such other order in the matter as the Court thinks fit.

PART IV—MASTERS AND SEAMEN

CHAPTER 1 : PRELIMINARY

124. The provisions of this Part shall not, except to such extent and subject to such conditions as the Minister may prescribe, apply—

- (a) to ships which are not sea-going ships;
- (b) to masters and seamen employed in ships which are not sea-going ships.

Showing of national ensign.

Proceedings on forfeiture of ship.

Protection of officers.

Application.

Interpretation.

125. In this Part—

"dying in a ship" includes reference to dying in a ship's boat and to being lost from a ship or a ship's boat;

"proper officer" means, in relation to a port in a country outside Sri Lanka, a Consular officer, or in the case of a port in a Commonwealth country, any officer exercising in that port functions similar to a Shipping Officer.

CHAPTER 2: QUALIFICATIONS AND MANNING

Regulations relating to qualifications of officers and seamen, the manning of ship, &c.

126. (1) The Minister may make such regulations as he considers necessary or expedient to provide for the qualifications of officers and seamen of, and the manning requirements for, Sri Lanka ships and for matters connected therewith, and without prejudice to the generality of such powers, may make regulations making provisions for-

- (a) requiring officers and seamen and other persons performing prescribed functions in relation to the operation and maintenance of ships to be holders of certificates of competency, authorization or efficiency or otherwise and to satisfy such other conditions as may be prescribed, and providing for the grant, revocation, extension, validation, suspension, endorsement or variation of such certificates;
- (b) the holding and conduct of examinations for such certificates, the qualifications of candidates for such examinations and the qualifications of, appointment, removal and reappointment of and remuneration to be paid to examiners, the fees for such examinations, and all such acts as the Minister thinks necessary or expedient for the purpose of such examinations;
- (c) the issue, form and recording of certificates of competency, authorization and efficiency, and other documents;

- (d) the exemption of persons with prescribed qualifications or experience from the whole or parts of examinations for such certificates;
- (e) the recognition, subject to such conditions as may be prescribed, of specified certificates of competency, authorization or efficiency issued by other countries, the declaration that such certificates shall have the same force and effect as if they had been granted in Sri Lanka, and the application to such certificates of all or any of the provisions and regulations relating to certificates of competency, authorization or efficiency issued in Sri Lanka;
- (f) the exemption of holders of certificates of competency, authorization or efficiency issued in other specified countries from all or such part or parts as may be prescribed of the examinations for corresponding Sri Lanka certificates of competency;
- (g) such ships to be provided with only certificated or qualified officers and seamen, at least to a scale prescribed by the Minister, when going to sea from any place, whether within or outside Sri Lanka;
- (h) the minimum number and grades of officers and seamen in possession of valid certificates to be carried on different classes and types of ships and the procedure to be followed whether within or outside Sri Lanka when such number is short of an officer or seaman ;
- (i) the manning requirements in relation to such classes or descriptions of ship as may be prescribed ;
- (j) the production and admissibility in evidence of certificates and such other documents as may be prescribed ;
- (k) the refusal of port clearance or the detention of any ship on failure to comply with the provisions of any regulations made under this section.

(2) Regulations made under this section may provide for the imposition of penalties of imprisonment of either description for a term not exceeding two years, or to a fine not exceeding ten thousand rupees, or both such imprisonment and fine.

CHAPTER 3: CONDITIONS OF SERVICE

127. (1) The Minister may make such regulations as he considers necessary or expedient to provide for the conditions of service of those serving in Sri Lanka ships and matters connected therewith, and without prejudice to the generality of such powers, may make regulations providing for-

- (a) apprenticeship to-the sea service, the exemption from stamp duty of indenture of apprenticeship, the production to such officers as may be prescribed of such indentures, and other matters relating to such apprenticeship;
- (b) the making of and procedures relating to agreements in writing between each person employed in a ship registered in Sri Lanka, and the owner or other person so employing him, the procedure to be followed in connexion with the engagement of persons employed in ships registered in Sri Lanka and the maintenance of a list of crews of ships registered in Sri Lanka ;
- (c) the engagement of citizens of Sri Lanka as officers and seamen by foreign ships at any port in Sri Lanka;
- (d) the engagement of foreign nationals as officers and seamen in Sri Lanka ships;
- (e) the employment in ships of persons under the age of eighteen years and the circumstances in which and the conditions subject to which such persons may be employed in different employments and different descriptions of ships and in any other different circumstances;
- (f) the implementation in whole or in part of any international convention

relating to the employment, welfare, security, certification or status of officers and seamen;

- (g) the master of a ship maintaining a list of persons under the age of eighteen years engaged in the ship, showing their dates of birth and such other details as may be prescribed ;
- (h) prohibiting (except subject to such extent and on such conditions as may be prescribed) the employment of persons under the age of eighteen years as trimmers or stokers in ships;
- (i) the medical examination of persons employed in ships;
- (j) the engagement of officers and seamen;
- (k) the admissibility of documents in evidence and the proof in legal or other proceedings by an officer or seaman of the contents of any agreement with the crew or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof;
- (l) the particulars to be included in articles of agreement referred to in paragraph (b) of this subsection ;
- (m) the avoidance of agreements made contrary to such regulations as may be prescribed;
- (n) the fees to be paid on engagement and discharge;
- (o) the entry on board any foreign ship in which any citizen of Sri Lanka is engaged and the taking of such records as may be prescribed for ensuring the due protection of such citizens within the terms of any regulation made under this section;
- (p) the procedure to be followed and the liabilities to be assumed by the owners and masters of ships, and officers and seamen, or termination of employment for any reason;

Regulations relating to conditions of service, &c.

- (q) restriction on suits relating to the wages of officers and seamen ;
- (r) the issue, cancellation, production and inspection of continuous discharge certificate books and such other documents as may be prescribed relating to the commencement or termination of employment;
- (s) the payment of advances, allotments, forfeitures and the recovery of wages and other remuneration of persons employed in ships registered in Sri Lanka;
- (t) the protection of the rights and remedies of an officer or seaman in relation to his wages or other remuneration;
- (u) the adjudication of questions as to wages and other remuneration by such officers or authorities as may be prescribed ;
- (v) the circumstances in which a right or a loss of a right to wages or other remuneration may occur;
- (w) the right of suing on any note or other document evidencing an allotment of wages;
- (x) the right to recover wages and salvage not to be subject to forfeiture ;
- (y) the payment of wages on the termination of employment;
- (z) the recovery of wages, the venue of and procedure relating to actions for such recovery of wages, the damages and expenses caused by or arising out of any breach of contract by an officer or seaman, and the setting off of any claims therefor against arrears of wages;
- (aa) the payment of interest (not exceeding twenty *per centum per annum*) in respect of arrears of wages;
- (bb) freeing wages from attachment or arrest from any court, providing that an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same, providing that a power of attorney or authority for the receipt of wages shall not be irrevocable, and providing that a payment of wages to an officer or seaman shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment, encumbrance or arrest thereof;
- (cc) the procedure to be followed in relation to the property of persons dying in a ship, the payment over of such property by such officers as may be prescribed, the restriction of claims upon such property by creditors (including the prescribing of limitation periods in respect thereof) and the disposition of the property of such persons;
- (dd) the relief, maintenance and repatriation of persons employed in Sri Lanka ships who are left or in distress abroad, and the recovery from any person or authority of any expenses incurred in connexion therewith;
- (ee) the scale and standards of provisions and water to be provided for crews, complaints relating to provisions and water, and the maintenance on board ships of accurate weights and measures;
- (ff) the scales of medicines and medical stores to be carried in different classes of ships and on different voyages, the instructions for dispensing medicines and treating injuries and illness, and the expenses of medical attendance and the recovery thereof;
- (gg) the accommodation to be provided for officers and seamen in a ship of any class prescribed, the position in the ship of such accommodation, the standards to be observed in the construction, equipment and furnishing of such ship, the approval of the plans and specifications thereof, the maintenance, repair and inspection of such accommodation, and the regulation of its use ;

- (hh) the making of complaints against the master or any member of the crew ;
- (ii) disciplinary offences, the discipline of officers and seamen, the imposition of fines and other penalties on persons committing offences against discipline or against laws relating to customs and immigration, the prescribing of offences which can be dealt with by a master, the procedure to be followed in disciplinary matters, the recovery and disposal of fines imposed therein, the remittance or reduction of any fine or penalty imposed by a master, the arrest and detention on board ship of any person whose arrest and detention is in the opinion of the master necessary or expedient in the interests of safety or for the preservation of good order or discipline, the powers of a master to disrate for incompetence, the making of appeals to such authority as may be prescribed, and the delegation by a master of disciplinary powers vested in him;
- (jj) the procedure for inquiries into deaths;
- (kk) a standard uniform for the merchant navy;
- (ll) the business of Shipping Officers and the fees to be payable in relation to the work performed by such officers;
- (mm) the form and issue of Sri Lanka seamen's identity cards, their production, endorsement and withdrawal of such cards and matters connected therewith;
- (nn) the setting up of ship's disciplinary committees and the procedure and powers of such committees;
- (oo) the establishment of seamen's employment office;
- (pp) the refusal of port clearance or the detention of any ship on failure to comply with the provisions of any regulation made under this section.

(2) Subject to the provisions of subsection (3), regulations made under this section may provide for the imposition of penalties of imprisonment of either description for a term not exceeding two years, or a fine not exceeding three thousand rupees, or both such fine and imprisonment.

(3) Regulations made under this section—

- (a) relating to offences concerning the property of deceased seamen, may provide for the imposition of fines up to amounts not exceeding three times the value of such property;
- (b) relating to the civil liability of seamen in relation to offences under laws relating to customs and immigration, may regulate or limit the damages payable or recoverable in respect thereof.

CHAPTER 4: DOCUMENTATION AND RETURNS

128. The Minister may make regulations providing for—

Regulations relating to official log-books.

- (a) the form of and the particulars to be entered in official log-books, and requiring such log-books to be kept in such ships as may be prescribed ;
- (b) the persons by whom entries in log-books are to be made, signed or witnessed;
- (c) the procedure to be followed in the making of such entries and in their correction, amendment or cancellation;
- (d) requiring the production or delivery of log-books to such persons, in such circumstances and within such times as may be prescribed ;
- (e) the making of copies of or extracts from official log-books, and their admissibility in evidence;
- (f) exempting ships of any description from any requirements of any regulations made under this section, either generally or in such circumstances as may be prescribed.

Regulations relating to returns of births and deaths in Sri Lanka ships.

129. The Minister may make regulations providing for the recording of births and deaths occurring in ships registered in Sri Lanka, and of deaths (wherever occurring) of officers and seamen employed in such ships, and without prejudice to the generality of such powers, may make regulations providing for—

- (a) requiring the master of any such ship to record any such birth or death and to send a return thereof to a Shipping Officer or other officer or authority;
- (b) requiring the master of any such ship to notify any such death to such person (if any) as the deceased may have named to him as his next of kin;
- (c) requiring the transmission of returns by Shipping Officers and other officers and authorities to such authority as may be prescribed ;
- (d) the preservation and filing in a register of such information as may be desirable for the purpose of ensuring the completeness and correctness of a register of such births and deaths;
- (e) any incidental or supplementary matters for which the Minister may think it expedient to provide for the purposes of the regulations.

Regulations relating to returns of births and deaths of citizens in ships not registered in Sri Lanka.

130. The Minister may make regulations providing for the recording of births and deaths of citizens of Sri Lanka occurring in ships not registered in Sri Lanka, and without prejudice to the generality of such powers, may make regulations providing for—

- (a) requiring the master of any such ship which calls at a port in Sri Lanka in the course of or at the end of a voyage to make a return to such authority as may be prescribed of any such birth or death which has occurred in the ship during the voyage;
- (b) the preservation and filing in any register kept under any regulations made under paragraph (d) of

section 129 of any information desirable for the purpose of ensuring the completeness and correctness of a register of such births and deaths;

- (c) authorizing the registration of any birth or death of a citizen of Sri Lanka which occurs outside Sri Lanka in a ship not registered in Sri Lanka and of which no return may be required pursuant to any regulations made under paragraph (a) of this section;
- (d) any incidental or supplementary matters for which the Minister may think it expedient to provide for the purpose of the regulations.

131. If a person ceases to be the master of a ship registered in Sri Lanka during a voyage of the ship, he shall deliver or cause to be delivered to his successor the documents relating to the ship or its crew which are in his custody; and if he fails without reasonable cause to do so he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Handing over of documents on change of master.

CHAPTER 5: GENERAL

132. (1) If a person, without the consent of the master or of any other person authorized to give it, goes to sea or attempts to go to sea (whether within or outside Sri Lanka) in a ship registered in Sri Lanka, he shall be guilty of an offence and on conviction thereof shall 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.

Stowaways.

(2) Nothing in section 290 shall be taken to limit the jurisdiction of any court in Sri Lanka to deal with an offence under subsection (1) which has been committed in a country outside Sri Lanka by a person who is not a citizen of Sri Lanka.

133. Where a ship registered in Sri Lanka or any other country is in a port in Sri Lanka and a person who is neither a

Unauthorized presence on board ship.

public officer nor authorized by law to do so—

- (a) goes on board the ship without the consent of the master thereof, or of any other person authorized to give consent; or
- (b) remains on board the ship after being requested to leave by the master, a Shipping Officer, a police officer or an officer of customs,

such person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Master's power of arrest.

134. The master of any ship registered in Sri Lanka may cause any person on board the ship to be put under restraint if and for so long as it appears to him to be necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Unregistered Sri Lanka ship.

135. The Minister may make regulations specifying any description of Sri Lanka ships which are not registered in Sri Lanka or elsewhere and directing that such of the provisions of this Part and of any regulations and rules made thereunder as may be prescribed shall extend to ships of that description and to masters and seamen employed in them with such exceptions, adaptations and modifications as may be prescribed.

National Welfare Board for seamen.

136. (I) The Minister may, by Notification published in the Gazette, constitute an advisory board to be called the National Welfare Board for seamen (hereinafter referred to as " the Board ") for the purpose of advising the Minister on the measures to be taken for promoting the welfare of seamen (whether ashore or on board ships) generally, and particularly the following :—

- (a) the establishment of hostels or boarding and lodging houses for seamen;
- (b) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seamen ;
- (c) the establishment of hospitals for seamen or the provision of medical treatment for seamen,

(d) the provision of educational and other facilities for seamen.

(2) The Minister may make rules providing for—

- (a) the composition of the Board and the term of office of members thereof;
- (b) the procedure to be followed in the conduct of business by the Board ;
- (c) the travelling and other allowances payable to members of the Board ;
- (f) the levy of fees payable by owners of ships at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seamen and for taking other measures for the welfare of seamen;

(e) the procedure by which any such fees may be collected or recovered and the manner in which the proceeds of such fees, after deduction of the cost of collection, shall be utilized for the purpose specified in paragraph (d) of this subsection.

137. (1) No person shall maintain a seamen's lodging house, except under the authority of a licence issued in that behalf by the Director and in accordance with such terms and conditions as may be prescribed.

Prohibition of the maintenance of a seamen's lodging house without a licence.

(2) Any person acting in contravention of subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one thousand rupees.

PART V—CONSTRUCTION, EQUIPMENT AND SURVEY

CHAPTER I: PRELIMINARY

138. (1) In this Part,—

Interpretation

" cargo ship " means any ship which is not a passenger ship;

" certificate " means, unless the context otherwise requires, the appropriate certificate issued under section 143 or section 144, as the case may be;

"Convention certificate" means a certificate issued in accordance with the Convention;

that neither the master nor the owner could have prevented or forestalled; or

"Convention" means the International Convention for the Safety of Life at Sea signed at London on 17th June, 1960, being Annex A to the Final Act of the International Conference on Safety of Life at Sea, 1960, and other Annexes thereto;

(c) a child under one year of age ;

"passenger ship" means a ship which carries more than twelve passengers;

"country to which the Convention applies " means—

"Surveyor" includes any person duly acting as a Surveyor on behalf of any organization approved by the Minister under section 149.

(a) a country the Government of which has been declared by the Minister, by Notification published in the Gazette, to have accepted the Convention, and which has not been so declared to have denounced the Convention ; and

(2) In relation to the definition of "international voyage " in subsection (1), no account shall be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

(b) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend ;

CHAPTER 2: POWERS OF MINISTER

"fishing vessel " means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;

139. (I) The Minister may make such regulations as he considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for safety at sea and for carrying out the Convention, any Annex thereto and any amendments or replacements of such Convention and Annexes, and without prejudice to the generality of such powers, may make regulations making provision for—

"international voyage " means a voyage from a port or place in Sri Lanka to a port or place outside Sri Lanka, or a voyage to Sri Lanka from a port or place outside Sri Lanka;

(a) the inspection and survey of ships, their equipment and installations, and the form, issue and duration of certificates relating thereto;

"passenger " means any person carried in a ship., other than—

(b) the validity of certificates issued by countries to which the Convention applies;

(a) the master and the members of the crew or other persons employed or engaged in any capacity on board the ship on the business of the ship;

(c) the investigation of shipping casualties;

(b) a person on board the ship, either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance

(d) the construction, sub-division and stability of ships, their equipment, machinery and electrical installations, fire protection, fire detection and extinction in passenger and cargo ships, the

general fire precautions to be taken on such ships and special fire safety measures for passenger ships ;

- (e) life-saving appliances and procedures;
- (f) radiotelegraphy and radiotelephony ;
- (g) safety of navigation;
- (h) the carriage of grain ;
- (i) the carriage of dangerous goods ;
- (j) nuclear ships;
- (k) the form of certificates to be issued under the regulations;
- (l) such matters as are to be prescribed under this Part;
- (m) generally giving effect to the provisions of the Convention and any amendments of such Convention.

(2) Every omission or neglect to comply with and every act done or attempted to be done without reasonable cause and contrary to the provisions of any regulations made under this section shall be an offence and in respect of any such offence the offender shall (subject to any other provision in this Act or in such regulations) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

140. Nothing in this Part or in any regulations made thereunder shall, unless it is expressly otherwise provided by such regulations, apply to—

- (a) ships of war and troopships;
- (b) cargo ships of less than five hundred tons gross tonnage;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of primitive build;
- (e) pleasure yachts not engaged in trade;
- (f) fishing vessels,

141. (1) The Minister may by order exempt any ship or classes of ships from any requirements of any regulations made under this Part, either absolutely or subject to such conditions as he thinks fit.

Power of Minister to exempt.

(2) Without prejudice to the powers conferred on him by subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister may, if he considers that the ship complies with safety requirements adequate for the voyage, exempt the ship from any of the safety requirements imposed under this Part.

(3) The owner, agent or master of a Sri Lanka ship which is exempt from any of the safety provisions or requirements imposed under this Part shall, on application to any person appointed in such behalf by the Minister, receive a certificate in the prescribed form, to be called an " exemption certificate ".

142. Notwithstanding that any provision of this Part or of any regulations made hereunder is expressed to apply to ships which are not Sri Lanka ships while they are within any port in Sri Lanka, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any such other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

Saving relating to ships taking refuge from weather, &c.

CHAPTER 3: CERTIFICATES AND SURVEY

143. (1) A passenger ship shall not go to sea on a voyage to or from any port or place in Sri Lanka, unless there is in force in respect of the ship either—

Prohibition on passenger ship sailing without certificates.

- (a) a passenger ship safety certificate ; or
- (b) a qualified passenger ship safety certificate and an exemption certificate,

being certificates which by the terms thereof are applicable to the voyages on which the ship is about to proceed and to the trade in which such ship is for the time being engaged.

Saving.

(2) If any passenger ship goes or attempts to go to sea in contravention of subsection (1), the owner or the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees for every passenger carried on board the ship.

Prohibition on cargo ship sailing without certificates.

144. (1). A cargo ship of five hundred tons gross or more shall not go to sea on a voyage to or from any port or place in Sri Lanka, unless there is in force in respect of the ship either—

(a) a cargo ship safety construction certificate, a cargo ship safety equipment certificate and a cargo ship safety radiotelegraphy certificate or a cargo ship safety radiotelephony certificate; or

(b) a qualified cargo ship safety equipment certificate and a qualified cargo ship safety radiotelegraphy certificate or, as the case may be, a qualified cargo ship safety radiotelephony certificate.

(2) A cargo ship of less than five hundred tons gross shall not go to sea on a voyage from any port or place in Sri Lanka, unless there is in force in respect of such ship—

(a) such certificate as may be prescribed ; or

(b) in the case of foreign ships such equivalent certificates as are acceptable to the Director.

(3) If any cargo ship goes or attempts to go to sea in contravention of subsection (1) or (2), the owner or the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Variation of certificates on amendment, &c., of Convention.

145. In the event of any amendment or replacement of any provisions of the Convention affecting the nature or number of the certificates referred to in subsection (!) of section 143 and section 144, the Minister may by order direct that such subsections shall have effect as if there were substituted therefor references to such other

certificate, appropriate to the Convention as so amended, as the Minister may by such order prescribe.

Production of certificates.

146. The master of every passenger or cargo ship shall produce to the Shipping Officer, at the time a clearance for the ship is demanded for an international voyage, the certificate or certificates required by section 143 or section 144 as the case may be, to be in force when the ship goes to sea; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

147. (I) The owner, the master or the agent of a ship requiring the issue of any certificate referred to in section 143 or section 144 shall apply for the ship to be surveyed.

Surveys and declarations of survey.

(2) The Surveyor conducting the survey shall, if he is satisfied that the ship complies with the relevant prescribed conditions, complete a declaration of survey in a form approved by the Minister.

(3) The declaration of survey shall be sent forthwith by the Surveyor to the Director.

148. Upon receipt of the declaration of survey of a ship referred to in section 147 the Director shall, if satisfied that the relevant provisions of this Part and the regulations made thereunder have been complied with, issue such certificate, of the kind referred to in section 143 or section 144, as may be appropriate to such ship.

Issue of certificates.

149. (1) The Minister may also approve any organization for the purpose of surveying ships and issuing certificates referred to in sections 143 and 144 of this Act and may prescribe the conditions under which such organization shall be so approved.

Minisier may approve organizations to survey ships and issue certificates.

(2) Every certificate issued by an organization approved under subsection (1) shall have effect for the purposes of this Act as if it had been issued under section 148.

150. A certificate shall not remain in force—

Period of validity of certificate.

(a) for longer than such period as may be specified in the certificate, or as may be prescribed; or

(b) after notice has been given to the owner, agent or master that the Minister has cancelled the certificate under section 151 ;

and shall not remain in force during the period of any suspension made under such section.

Cancellation or suspension of certificates.

151. (1) The Minister may cancel or suspend a certificate relating to any ship where he has reason to believe that—

- (a) any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously;
- (b) the certificate has been issued on false or erroneous information ; or
- (c) since the making of the declaration of survey the hull, equipment or machinery of the ship has sustained any injury, or is otherwise insufficient.

(2) In every such case the Minister may require the owner to have the ship again surveyed, and to obtain a further declaration of survey before the reissue of the certificate or the grant of a fresh one in lieu thereof.

Surrender of certificates.

152. (1) The Minister may order that a certificate which has expired or been cancelled or suspended shall be delivered to such person or authority as he may direct.

(2) Any owner or master who, without reasonable cause, fails to comply with an order issued under subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

Recognition of certificates issued outside Sri Lanka.

153. A valid Convention certificate issued in respect of a ship, other than a Sri Lanka ship, by the Government of the country to which the ship belongs shall, subject to such requirements or provisions as may be prescribed, have the same effect in Sri Lanka as the corresponding certificate issued in respect of a Sri Lanka ship under this Part.

154. (1) The Minister may, at the request of the Government of a country to which the Convention applies, cause an appropriate Convention certificate to be issued in respect of a ship registered in that country, if he is satisfied that such certificate can properly be issued; and where the certificate is issued at such request, it shall contain a statement that it has been so issued.

(2) The Minister may request the Government of a country to which the Convention applies to issue an appropriate Convention certificate in respect of a Sri Lanka ship; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the Minister.

155. Any owner, master or agent of a ship in respect of which a certificate has been issued who, knowingly or negligently, without reasonable cause does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship or other matters to which the certificate relates shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Issue of certificates to foreign ships in Sri Lanka, and to Sri Lanka ships in foreign countries.

Penally for alteration in ship after certificate has been issued.

156. Any person who—

- (a) knowingly and wilfully makes or assists in making or procures to be made a false or fraudulent certificate or declaration of survey issued under section 147 ; or
- (b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering or procures to be fraudulently altered any such certificate or declaration,

Penally for forgery of certificate or declaration.

shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

CHAPTER 4: GENERAL

Information about ship's stability.

157. (1) There shall be carried on board every Sri Lanka ship whose keel is laid after the 25th day of January, 1972, such information in writing about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship.

(2) The information required by subsection (1) shall be in such form as may be approved by the Minister, and the Minister may approve the provision of such information in the form of a diagram or drawing only.

(3) When any information under this section is provided for any ship, the owner thereof shall send a copy to the Minister:

Provided, however, that the owner shall not be required to send a copy of any information to the Minister if a previous copy of the same information has been sent to the Minister.

(4) Any owner or master of any ship referred to in subsection (1) which goes or attempts to go to sea without the information required by that subsection on board shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

Signalling lamps.

158. (1) No Sri Lanka ship, being a ship of over one hundred and fifty tons gross tonnage, shall go to sea on an international voyage, unless the ship is provided with an efficient signalling lamp.

(2) If a ship goes or attempts to go to sea in contravention of subsection (1), the owner or master thereof shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

PART VI—LOAD LINES

CHAPTER I: PRELIMINARY

Interpretation.

159. In this Part—

"Convention certificate" means a certificate issued in accordance with the Convention of 1966,

"Convention of 1966" means the International Convention on Load Lines signed in London on 5th April, 1966;

"Convention country" means—

(a) a country the Government of which has been declared by the Minister, by Notification published in the Gazette, to have accepted the Convention of 1966, and which has not been so declared to have denounced that Convention; and

(b) a territory to which it has been so declared that the Convention of 1966 extends, not being a territory in which it has been so declared that such Convention has ceased to extend;

"existing ship" means a ship which is not a new ship as defined by section 162;

"Load Line Regulations" means regulations made under section 164.

160. This Part applies to all ships except— Application.

(a) ships of war;

(b) new ships of less than 79 feet;

(c) existing ships of not less than 150 tons gross;

(d) pleasure yachts not engaged in trade;

(e) fishing vessels.

161. In this Part, "international voyage" means a voyage between— Definition of "international voyage".

(a) a port or place in Sri Lanka and a port or place outside Sri Lanka ; or

(b) a port in a Convention country (other than Sri Lanka) and a port in any other country or territory (whether or not a Convention country) which is outside Sri Lanka;

Provided, however, that in determining the ports between which a voyage is made no account shall be taken of any deviation by a ship from her intended voyage which is due solely to such stress of weather or such other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.

Definition of "new ship".

162. In this Part, "new ship" means a ship whose keel is laid, or which is at a similar stage of construction, on or after,—

(a) in the case of a ship registered in or flying the flag of a country which is a Convention country (other than Sri Lanka), the date from which it is declared that the Government of that country has accepted or acceded to the Convention of 1966, or that it is a country to which that Convention extends; or

(b) in the case of any other ship, the 25th day of January, 1972.

Definition of "valid Convention certificate".

163. In this Part, "valid Convention certificate" means a certificate which has been issued—

(a) under section 173 and is for the time being in force; or

(b) by a Government, other than the Government of Sri Lanka, in circumstances in which it is recognized as a valid certificate for the purpose of this Part.

Regulations relating to load lines, &c.

164. (1) The Minister may make such regulations as he considers necessary or expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for load lines and for carrying out the Convention of 1966, any Annex thereto and any amendments of such Convention and Annexes and, without prejudice to the generality of such powers, may make regulations making provision for—

(a) the survey and periodical inspection of ships;

(b) the determination of freeboards;

(c) the determination of freeboard decks and the marking of such decks on each side of the ship by a mark or

description (in this Part called a "deck line");

(d) the various maximum depths to which a ship may be loaded (in this Part called "load lines");

(e) the conditions of assignment of freeboards,

(f) the stability, loading and ballast of ships;

(g) the issue of load line and other certificates issued under this Part, the periods for and the conditions under which such certificates shall remain in force, and the cancellation of such certificates;

(h) the validity of certificates issued under the Convention of 1966 by Governments, other than the Government of Sri Lanka;

(i) such matters as are to be prescribed under this Part; and

(j) generally for giving effect to the provisions of the Convention and any amendments of such Convention.

(2) Every omission or neglect to comply with and every act done or attempted to be done without reasonable cause and contrary to the provisions of any regulations made under this section shall be an offence and in respect of any such offence the offender shall (subject to any other provision in such regulations) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees-

165. The Minister may make regulations providing for the cargo to be carried on the decks of ships.

Regulations relating to deck cargo.

CHAPTER 2: SHIPS REGISTERED IN SRI LANKA

166. (1) Subject to any exemption granted under this Part, a ship registered in Sri Lanka shall not go or attempt to go to sea, unless—

Prohibition on sailing without certificates.

(a) the ship has been surveyed in accordance with the Load Line Regulations;

(b) the ship is marked with a deck line and a load line in accordance with those Regulations; and

(c) the ship complies with those Regulations.

(2) If any ship goes or attempts to go to sea in contravention of subsection (1), the owner or the master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Prohibition in excess loading.

167. (1) When a ship registered in Sri Lanka is marked with load lines, the ship shall not be so loaded that—

(a) if the ship is in salt water, and has no list, the appropriate load line on each side of the ship is submerged ;

(b) in any other case, such load line would be submerged, if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of subsection (1), the owner or the master of the ship shall (subject to subsection (3)) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees, and to an additional fine (not exceeding ten rupees for each complete centimetre by which the load line is submerged) as the court may think fit to impose.

(3) Where a person is charged with an offence under subsection (1), it shall be a defence for him to prove that the contravention was due solely to deviation or delay which was caused by such stress of weather or such other circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(4) Any ship which is loaded in contravention of subsection (1) may be detained until such ship ceases to be so loaded.

168. Where a ship registered in Sri Lanka is marked in accordance with the requirements of this Part, then, if—

Penalties concerning marking of ships.

(a) the owner or master of the ship fails without reasonable cause to keep the ship so marked ; or

(b) any person conceals, removes, alters, defaces or permits any person under his control to conceal, remove, alter, deface or obliterate any mark with which the ship is so marked (except where he does so under the authority of a person empowered under the Load Line Regulations to authorize him in that behalf),

he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

169. (1) Where a ship registered in Sri Lanka has been surveyed and marked in accordance with the Load Line Regulations, the appropriate certificate shall be issued to the owner of the ship on his application.

Issue of certificates.

(2) For the purposes of this section, the appropriate certificate shall be called—

(a) in the case of an existing ship of not less than one hundred and fifty tons gross tonnage, and in the case of a new ship of not less than twenty-four metres in length, an "International Load Line Certificate (1966)";

(b) in the case of any other ship, a "Sri Lanka Load Line Certificate ".

(3) The appropriate certificate to be issued under this section—

(a) shall be issued by the Director, or by such person or authority as may be authorized by the Director in that behalf;

(b) shall be in such form and shall be issued in such manner as may be approved by the Director or as may be prescribed;

(c) may at the request of the Director be issued by the Government of any Convention country.

Presumptions arising on issue of certificates.

170. Where a certificate issued under section 169, and for the time being in force is produced in respect of the ship to which it relates—

- (a) the ship shall be deemed to have been surveyed in accordance with the Load Line Regulations; and
- (b) if lines are marked on the ship corresponding in number and description to the deck line and load line required by such Regulations, and the positions of those lines correspond to the position of the deck line and load lines as specified in the certificate, the ship shall be deemed to be marked as required by such Regulations.

Certificate to be produced prior to clearance.

171. (1) Subject to any exemption conferred by or under this Part, no ship registered in Sri Lanka shall go or attempt to go to sea or be used in any port or place, unless the appropriate certificate issued under section 169 is in force in respect of such ship.

(2) Before any such ship goes to sea the master thereof shall produce the appropriate certificate to the proper officer of customs from whom a clearance for the ship is demanded; and clearance shall not be granted, and the ship may be detained, until the appropriate certificate is so produced.

(3) If any ship goes or attempts to go to sea or is used in contravention of this section, the master thereof shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

Duties of owner and master on issue of certificate.

172. (1) When an appropriate certificate has been issued under section 169 in respect of any ship, the owner or master of the ship shall cause it to be put up in some conspicuous place on board the ship, so as to be legible to all persons on board, so long as it remains in force.

(2) The owner or master of any ship who fails to comply with the requirement imposed on him by subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding fifty rupees.

CHAPTER 3: SHIPS NOT REGISTERED
IN SRI LANKA

173. The Director may, at the request of the Government of the parent country of a ship which is—

Issue of certificate to ship not registered in Sri Lanka.

- (a) not registered in Sri Lanka;
- (b) registered in a Convention country or, although not so registered, flies the flag of a Convention country; and
- (c) either an existing ship of not less than one hundred and fifty tons gross tonnage, or a new ship of not less than twenty-four metres in length,

if he is satisfied that he could properly issue a certificate in respect of the ship under section 169 if the ship were registered in Sri Lanka, issue in respect of such ship a certificate; and such certificate shall for the purposes of this Part be an " International Load Line Certificate (1966). "

174. (1) Subject to subsection (2) and to any exemption granted under this Part, a ship which is not registered in Sri Lanka shall not go or attempt to go to sea, unless—

Prohibition on sailing without survey, &c.

- (a) the ship has been surveyed in accordance with the Load Line Regulations;
- (b) the ship is marked with a deck line and a load line in accordance with those Regulations;
- (c) the ship complies with those Regulations.

(2) The provisions of subsection (1) shall not apply to any ship in respect of which a valid Convention certificate is produced.

(3) If any ship goes or attempts to go to sea in contravention of subsection (1), the owner or master of the ship shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

(4) Any ship which in contravention of this section attempts to go to sea without being surveyed and marked as mentioned in

subsection (1) may be detained until it has been so surveyed and marked.

Prohibition on excess loading.

175. (1) When a ship not registered in Sri Lanka is within any port or place in Sri Lanka and is marked with load lines, the ship shall not be so loaded that—

- (a) if the ship is in salt water, and has no list, the appropriate load line on each side of the ship is submerged ; and
- (b) in any other case, such load line would be submerged if the ship were in salt water and had no list.

(2) If any ship is loaded in contravention of subsection (1) the owner or master of the ship shall, subject to subsection (3), be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees, and to an additional fine (not exceeding ten rupees for each complete centimetre whereby the load line is submerged) as the court may think fit to impose.

(3) Where a person is charged with an offence under subsection (1), it shall be a defence for that person to prove that the contravention was due solely to deviation or delay which was caused by such stress of weather or such other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(4) Any ship which is loaded in contravention of subsection (1) may, if it has been surveyed by a Surveyor be detained until it ceases to be so Loaded.

Issue of Sri Lanka Load Line Certificate.

176. (1) Where a ship not registered in Sri Lanka has been surveyed and marked in accordance with the Load Line Regulations, then, on the application of the owner of the ship a Sri Lanka Load Line Certificate shall be issued to him by the Director or by a person so authorized by the Director.

(2) Any certificate issued under this section in respect of a ship to which section 173 applies shall be valid only so long as the ship is not plying on international voyages, and shall be cancelled by the Minister if he has reason to believe that the ship is plying on international voyages.

177. Subject to any exemption conferred under this Part, before a ship not registered in Sri Lanka goes to sea from any port or place in Sri Lanka, the master of the ship shall produce to the proper officer of customs from whom a clearance for such ship is demanded—

Certificates to be produced prior to clearance.

- (a) in the case of a ship to which section 173 applies, where a clearance for the ship is demanded in respect of an international voyage, a valid Convention certificate;
- (b) in the case of any such ship, where a clearance for the ship is demanded in respect of any other voyage, either a valid Convention certificate or a valid Sri Lanka Load Line Certificate; and
- (c) in any other case, a valid Sri Lanka Load Line Certificate;

and if such certificate is not produced, a clearance shall not be granted and the ship may be detained.

178. (1) Subject to the provisions of this section, a Surveyor may inspect any ship which is not registered in Sri Lanka while the ship is at any port or place in Sri Lanka, and shall be entitled to inspect any certificate referred to in section 177, for the time being in force in respect of the ship.

Power of inspection.

(2) If on demand a valid Convention certificate is produced to a Surveyor in respect of any ship, then, the powers of the Surveyor shall be limited to seeing—

- (a) that the ship is not loaded beyond the limits allowed by the certificate ;
- (b) that lines are marked on the ship in the position of the load lines specified in the certificate ;
- (c) that no material alterations have taken place in the hull or superstructure of the ship which affect the position in which any of those lines ought to be marked; and
- (d) that the fittings and appliances for the protected openings, the guard rails, the freeing ports and the means of

access to the crew's quarters have been maintained on the ship in as effective a condition as they were when the certificate was issued.

(3) If on an inspection of a ship under this section, the ship is found to have been so materially altered in respect of the matters referred to in paragraph (c) or (d) of subsection (2) that the ship is manifestly unfit to go to sea without danger to human life, then the ship shall be deemed to be unsafe for the purposes of section 207.

(4) Where a ship is detained pursuant to the provisions of subsection (3), the Director shall order the ship to be released as soon as he is satisfied that the ship is fit to go to sea without danger to human life.

CHAPTER 4: EXEMPTIONS

179. If in the opinion of the Minister the sheltered nature and conditions of international voyages—

- (a) between near neighbouring ports in Sri Lanka and in another Convention country; or
- (b) between near neighbouring ports in any two or more countries or territories outside Sri Lanka,

make it unreasonable or impracticable to apply the provisions of this Part to ships plying on such voyages, and the Minister is satisfied that the Government of the other country or territory or, as the case may be, other countries or territories agrees with that opinion, he may by order direct that ships plying on international voyages between those ports (as specified in the order), or any class of such ships as may be specified in such order, shall be exempt from the provisions of this Part.

180. The Minister may by order direct that—

- (a) ships under eighty tons register engaged solely in the coasting trade; or
- (b) any class of ships specified in the order,

shall be exempt from the provisions of this Part while not carrying cargo or (if the order so provides) whether carrying cargo, or not.

181. On the application of the owner of a Ship which is—

- (a) registered in Sri Lanka, and
- (b) an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length,

the Minister may exempt the ship from all or any of the provisions of this Part or of any regulations made hereunder, if in his opinion the ship has such features, of a novel kind, that if the ship had to comply with such provisions the development of those features and their incorporation in ships engaged on international voyages might be seriously impeded.

182. On the application of the owner of a Ship Which is—

- (a) registered in Sri Lanka; and
- (b) an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length; or
- (c) a ship which does not ply on international voyages,

the Minister may, subject to the provisions of sections 184 and 185, by order exempt the ship from all or any of the provisions of this Part or of any regulations made hereunder.

183. Without prejudice to the provisions of section 182, where a ship which is—

- (a) registered in Sri Lanka; and
- (b) an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length,

does not normally ply on international voyages but is, in exceptional circumstances, required to undertake a single international

Power of exemption in relation to ships with novel features.

Power of exemption in relation to ships in Sri Lanka.

Power of exemption in relation to single voyage.

Power of exemption in relation to ships on certain international voyages.

Power of exemption in relation to ships under eighty tons, &c.

voyage, the Minister, on the application of the owner of the ship, subject to the provisions of sections 184 and 185, by order specifying the international voyage in question exempt the ship from all or any of the provisions of this Part or of any regulations made hereunder.

Power to impose conditions.

184. An order made under section 182 or section 183, may be made subject to such conditions as the Minister may think fit, and in such event the exemption conferred by the order shall not apply in relation to a ship unless the ship complies with such conditions.

Exemption certificates.

185. Where the Minister exempts a ship under section 181, section 182, or section 183, he shall issue the appropriate certificate to the owner of the ship, in such form and manner as may be prescribed by the Load Line Regulations; and when such exemption is made under—

- (a) section 181 or section 183, the certificate shall be called an "International Load Line Exemption Certificate";
- (b) section 182, shall be called a "Sri Lanka Load Line Exemption Certificate".

PART VII—SAFETY OF NAVIGATION

CHAPTER I: PREVENTION OF COLLISIONS

Collision regulations.

186. (1) The Minister may (without prejudice to the powers conferred on him by section 139) make regulations for preventing collisions at sea (in this Act referred to as "collision regulations"), and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed by all Sri Lanka ships wherever they may be.

(2) The power of the Minister under subsection (1) shall include power to make regulations for the prevention of collisions at sea—

- (a) between seaplanes on the surface of the water; and

- (b) between ships and seaplanes on the surface of the water.

(3) Regulations made under subsection (1) together with the provisions of this Part relative thereto or otherwise relating to collisions shall be observed by all ships and seaplanes of foreign registry within Sri Lanka waters, and in any case before a court in Sri Lanka concerning an infringement of the collision regulations arising within Sri Lanka waters, foreign ships and seaplanes shall be treated as if they were ships and seaplanes registered in Sri Lanka.

Observance of collision regulations.

187. (1) All owners and masters of Sri Lanka ships shall obey the collision regulations, and shall not carry or exhibit any other lights or use any other fog signals than such as are prescribed by those regulations.

(2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the Court that the circumstances of the case made a departure from the regulations necessary.

(4) Subsections (1) and (2) shall apply to the owners and pilots of seaplanes on the surface of water as they apply to the owners and masters of ships, and subsection (3) shall apply to the pilot or other person in charge of a seaplane as it applies to the person in charge of the deck of a ship.

188. (1) Rules made, whether before or after the coming into operation of this Act, under any other Act or Ordinance concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by ships navigating the waters of any port, river or other area of inland

Local rules for navigation in ports, &c.

navigation, shall, as regards such ships, have full force and effect notwithstanding anything in this Act.

(2) Where there are no rules referred to in subsection (i) in force in respect of any matters specified therein, then, the Minister may make rules under this Act in respect of such matters, and any rules so made shall have force and effect as though they were part of the collision regulations.

189. (1) A Surveyor may inspect any Sri Lanka or foreign ship for the purpose of seeing that the ship is properly provided with lights and the means of making fog signals, in conformity with the collision regulations.

(2) If a Surveyor finds that a ship is not provided with lights and the means of making fog signals in conformity with the collision regulations he shall give to the master or owner thereof a notice in writing specifying—

- (a) the deficiency ; and
- (b) what is in his opinion necessary in order to remedy the deficiency.

(3) A Surveyor shall give details of every notice given by him under subsection (2) to the chief officer of customs at any port at which the ship to which such notice relates seeks clearance, and the ship shall be detained until a certificate under the hand of the Surveyor is produced, to the effect that the ship is properly provided with lights and with the means of making fog signals, in conformity with the collision regulations.

(4) For the purpose of an inspection under this section, a Surveyor shall have all the powers of an inspector under section 314.

(5) Where the certificate as to lights and signals in a ship is refused, an owner may appeal to the Court of Survey constituted under section 217 for the port where the ship for the time being is, in such manner as may be directed by the rules of that Court.

(6) On any appeal under subsection (5), the Judge of the Court of Survey shall report to the Director on the question raised by the appeal and the Director, when

satisfied that the requirements of the report and this Act as to lights and fog signals have been complied with, may grant or direct a Surveyor or other person appointed by him to grant the certificate referred to in subsection (3).

(7) Subject to any order made by the Judge of a Court of Survey, the costs of and incidental to an appeal under subsection (5) shall follow the event.

(8) A Surveyor shall, in making an inspection of a ship under this section, if the owner of the ship so requires, be accompanied on the inspection by some person appointed by the owner, and if in that case the Surveyor and the person so appointed agree there shall be no appeal under this section to a Court of Survey.

(9) The Minister may by regulations prescribe the fees to be paid in respect of an inspection of lights and fog signals under this section.

190. (1) A person on a Sri Lanka ship shall not, when the ship is going ahead, give a helm or steering order—

Method of giving helm orders.

- (a) containing the word " starboard " or " right ", or any equivalent thereof, unless he intends that the head of the ship shall move to the right;
- (b) containing the word " port " or " left ", or any equivalent thereof, unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

CHAPTER 2: REPORTS OF ACCIDENTS AND LOSSES OF SHIPS

191. (1) When a ship—

Reports of accidents to ships.

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person ; or

Inspection as to lights and fog signals,

(b) has received any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery,

the owner or master thereof shall, within twenty-four hours after the happening of the accident or damage or as soon as possible thereafter, transmit to the Shipping Officer, if the ship is in a port, or otherwise to the Director, a report of the accident or damage.

(2) Every report of accident or damage to a ship made under subsection (1) shall be signed by the owner or master of the ship, and shall state—

- (a) the name of the ship, the port to which the ship belongs, the official number (if any) of the ship and the place where the ship is;
- (b) the circumstances in which the accident or damage occurred ; and
- (c) the probable cause of the accident or damage.

(3) Any owner or master of a ship who fails, without reasonable cause, to comply with this section shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(4) This section shall apply to all Sri Lanka ships and to all foreign ships carrying passengers between places in Sri Lanka.

Notice of loss of Sri Lanka ship to be given to the Director.

192. (1) If the managing owner or agent of any Sri Lanka ship has reason, owing to the non-appearance of the ship or to any other circumstance, to believe that the ship has been wholly lost, he shall cause a reasonable search to be made for the ship and shall, as soon as conveniently may be, send to the Director a notice in writing signed by him and stating—

- (a) the name of the ship, the port to which the ship belongs and the official number (if any) of the ship ; and
- (b) a report of the loss of the ship and the circumstances and probable cause of such loss.

(2) Any managing owner or agent of a ship who fails, without reasonable cause, to comply with this section within a reasonable period from the time when he has reason to believe such ship to have been lost, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

CHAPTER 3 : LIGHTHOUSES

193. In this Part, unless the context otherwise requires—

" buoy " and " beacon " include all other marks and signals of the sea;

" lighthouse ", in addition to the ordinary meaning of the word, includes any floating and other light exhibited for the guidance of ships, and also any apparatus for transmitting fog signals, and any radiobeacon, and also any addition to a lighthouse of any improved light, apparatus for transmitting fog signals, or radiobeacon.

194. Any person who wilfully or negligently—

(a) damages or obscures any lighthouse or the lights exhibited therein, or any buoy, beacon or other aid to navigation;

(b) removes, alters, destroys or damages any lightship, buoy, beacon or other aid to navigation, or any cable, wire or other apparatus used in connexion therewith ; or

(c) rides by, makes fast to, or runs foul of, any lightship, buoy, beacon or other aid to navigation,

shall (in addition to the expenses of making good any damage so occasioned) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees; and the Court trying the case may (notwithstanding any limitation of its ordinary Jurisdiction) make an order for the payment by such person of the expenses of making good any damage occasioned by such contravention, and the sum payable by such person under such order shall be deemed to be a fine imposed by the Court.

Prevention of false lights.

195. (1) Whenever any fire or light is burnt or exhibited at such a place or in such a manner—

- (a) as to be liable to be mistaken for a light from a lighthouse ; or
- (b) as to affect the visibility of the light proceeding from a lighthouse,

any authorized officer may serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person in charge of the fire or light, directing that owner or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing for the future any similar fire or light.

(2) For the purposes of subsection (1), the expression " authorized officer", in relation to any lighthouse, means the officer-in-charge of the lighthouse, or, where such lighthouse has no officer-in-charge, any Master Attendant,* Government Agent, Assistant Government Agent, Shipping Officer, Superintendent or Assistant Superintendent of Police, a divisional Assistant Government Agent or officer of the armed forces of Sri Lanka.

Notice under section 195.

196. A notice under section 195 may be served either—

- (a) personally; or
- (b) by delivery of the notice at the place of abode of the person to be served; or
- (c) by fixing the notice in some conspicuous spot near to the fire or light to which the notice relates.

Penalty.

197. Any person on whom a notice is served under section 195 (read with section 196) who fails, without reasonable cause, to comply with the directions contained therein shall, (in addition to any expenses to which he may be liable under this Chapter) be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

* In " specified ports " the functions of the Master Attendant are performed by the Sri Lanka Ports Authority- See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance,

198. If the owner or person on whom a notice is served under section 195 (read with section 196) fails to extinguish or effectually screen the fire or light mentioned in the notice, any authorized officer within the meaning of that section may—

- (a) by his servants or workmen enter the place where the fire or light is and forthwith extinguish the same, doing no unnecessary damage;
- (b) recover the expenses incurred by him in so doing from the owner or person on whom the notice has been served in the manner provided in the Civil Procedure Code for actions by summary procedure on liquid claims.

Powers of Director and others on failure to extinguish false light, &c.

CHAPTER 4: ASSISTANCE

199. (1) The master of a Sri Lanka ship on receiving at sea a signal from any source that a ship or aircraft or survival craft thereof is in distress, shall go with all speed to the assistance of the persons in distress, informing them if possible that he is doing so, and if—

- (a) he is unable; or
- (b) in the special circumstances of the case he considers it unreasonable or unnecessary to proceed to their assistance,

Obligation to assist ships, &c., in distress.

he shall enter in the log of the ship the reason for failing to proceed to the assistance of the persons in distress.

(2) The master of a ship shall be released from the obligation imposed by subsection (1) pursuant to the provisions of subsection (2) of section 200, or when he learns that one or more ships, other than his own, have been requisitioned under section 200, and are complying with the requisition.

(3) If a master fails to comply with the provisions of this section he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

Right to requisition ships when in distress.

200. (1) The master of a ship in distress, after consultation, so far as may be possible, with the masters of the ships which answer his call for assistance, has the right to requisition such one or more of those ships as he considers best able to render assistance; and it shall be the duty of the master or masters of the ship or ships requisitioned to comply with the requisition, by continuing to go with all speed to the assistance of persons in distress.

(2) The master of a ship shall be released from the obligation imposed by subsection (1) of section 199 and, if his ship has been requisitioned, from the obligation imposed by subsection (1) of this section, if he is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer necessary.

General duty to render assistance to persons in danger at sea.

201. (1) The master of a ship shall, so far as he can do so without serious danger to his own ship and the crew and passengers (if any) of such ship, render assistance to every person (even an enemy) who is found at sea in danger of being lost.

(2) If the master of a ship fails to comply with the provisions of subsection (1), he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

Duty of ship to assist the other in case of collision.

202. (1) After a collision between ships, the master of each ship shall, if and so far as he can do so without danger to his own ship, crew and passengers (if any),—

- (a) make his best efforts to give to the other ship, the master, crew and passengers (if any) thereof such assistance as may be practicable and as may be necessary to save them from any danger caused by the collision;
- (b) stand by the other ship, until he has ascertained that such ship has no need of further assistance ;
- (c) give the master of the other ship the name and port of registry of his

ship, and the names of the ports from which his ship sailed and to which his ship is bound.

(2) If the master of a ship fails, without reasonable cause, to comply with any provision of subsection (1), he shall be guilty of an offence and on conviction thereof shall be liable to imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

203. Where the Director, for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives, has permitted more persons to be carried on board a ship than are permitted under this Act or any regulations made thereunder, the carriage of those persons shall not be an offence. Assistance to persons in danger.

204. Compliance by a master with any of the provisions of this Chapter shall not affect his right or the right of any other person to salvage. Salvage rights not affected.

CHAPTER 5: UNSEAWORTHY SHIPS

205. (1) Any person who sends or attempts to send any ship, Sri Lanka or foreign, to sea from any port in Sri Lanka in such an unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of an offence, unless he proves either— Sending unseaworthy ship to sea an offence.

- (a) that he used all reasonable means to ensure such ship being sent to sea in a seaworthy state ; or
- (b) that the going to sea of such ship in such an unseaworthy state was in the circumstances reasonable and Justifiable.

(2) Any master of a ship, Sri Lanka or foreign, who knowingly takes such ship to sea from any port in Sri Lanka in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of an offence, unless he proves that the going to sea of such ship in such an unseaworthy state was in the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted except with the consent of the Director.

Lanka for any purpose, other than the purpose—

(4) An offence under this section shall be punishable on conviction with imprisonment of either description for a term not exceeding two years, or to a fine not exceeding three thousand rupees, or to both such imprisonment and fine.

- (a) of embarking or landing passengers; or
- (b) taking in or discharging coal or taking in bunkers.

Obligation of shipowner to crew with respect to sea worthiness.

206. (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, or in any instrument of apprenticeship whereby any person is bound to serve on board a ship, there shall be implied (notwithstanding any agreement to the contrary) an obligation on the owner of the ship that the owner of the ship and the master and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means—

208. (1) The Director, if he has reason to believe (whether on a complaint or otherwise) that a ship in any port in Sri Lanka is an unsafe ship, may order the provisional detention of the ship as an unsafe ship for the purpose of being surveyed. Method of detention of unsafe ships

(2) Where a ship has been provisionally detained by order under subsection (1)—

- (a) to ensure the seaworthiness of the ship at the time when the voyage commences ; and
- (b) to keep the ship in a seaworthy condition during the voyage.

(a) a written statement of the grounds of the detention of such ship shall forthwith be served on the master of the ship;

(b) in the case of a foreign ship, a copy of such order shall forthwith be served on the Consular officer for the country to which the ship belongs at or nearest to the port in which the ship may be ;

(2) Nothing in subsection (1) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

(c) the Director may, if he thinks fit, appoint some competent person or persons to survey the ship and report thereon to him ;

(d) the owner or master of the ship may, at any time before any person or persons appointed under paragraph (c) to survey the ship make such a survey, require such person or persons to be accompanied by such person as the owner or master may select from the list of assessors for the Court of Survey for the port referred to in section 217, and in that case, if all such persons agree the Director shall cause the ship to be detained or released accordingly as the circumstances may require (but without prejudice to any appeal under subsection (4)) or, if they do not agree, shall act as if such requisition had not been made,

207. (1) Where any ship, being in any port in Sri Lanka, is an unsafe ship, that is to say, is, by reason of the defective condition of her hull, equipment, machinery, undermanning, overloading or improper loading, unfit to proceed to sea without serious damage to human life having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed or ascertaining the sufficiency of her crew, and either finally detained or released under section 208.

Power to detain unsafe ships.

(2) Nothing in this section shall affect any foreign ship not bound to a port in Sri Lanka, which comes into any port in Sri

(e) in the case of a foreign ship, the Consular officer referred to in paragraph (b) may, on the request of the owner or master of the ship, require that any person or persons appointed under paragraph (c) shall be accompanied by such person as the Consular officer selects and, if all such persons agree, the Director shall cause the ship to be detained or released as the circumstances may require (but without prejudice to any appeal under subsection (4)) or, if they do not agree, shall act as if such requisition had not been made.

(3) The Director, on receiving the report, on a ship referred to in subsection (2), may either—

- (a) order the ship to be released ; or
- (b) if in his opinion the ship is unsafe, (and subject to subsection (4)) order her to be finally detained, either absolutely or until the compliance with such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship, as he thinks necessary for the protection of human life,

and may vary or add to any such order.

(4) Before an order for the final detention of a ship under subsection (3) is made, a copy of the report on the ship referred to in paragraph (c) of subsection (2) shall be served upon the master of the ship and within seven days of such service the owner or master of this ship may appeal in the prescribed manner to a Court of Survey constituted under Part VIII.

(5) Where a ship has been provisionally detained under subsection (1), the Director may at any lime, if he thinks it expedient, refer the matter to the Court of Survey constituted under Pan VIII.

(6) The Director may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be

released either upon or without any conditions-

209. (I) An order for the detention of a ship, whether provisional or final, and any order varying such order, shall be served as soon as may be on the master of the ship.

Supplementary provisions relating to detention.

(2) A ship detained under this Act shall not be released by reason of the Sri Lanka registry of such ship being closed-

210. (1) Every Shipping Officer and Surveyor shall have the same power as the Director has under section 208 of ordering the provisional detention of a ship for the purpose of survey or for ascertaining the sufficiency of her crew, and of appointing a person or persons to survey the ship ; and if he thinks that a ship so detained by him is not unsafe he may order such ship to be released.

Exercise of powers.

(2) Any officer detaining a ship under subsection (1) shall forthwith report to the Director any order made by him for the detention or release of a ship.

(3) Any person surveying a ship under paragraph (c) of subsection (2) of section 208, and any officer detaining a ship under subsection (1) of this section, shall, for the purpose of such survey and .detention, have the same power as a person appointed by a Court of Survey constituted under Part VIII to survey a ship, and the provisions of this Act with respect to a person so appointed shall apply accordingly; and the powers exercisable by such person or officer shall include power to muster the crew of the ship.

211. (I) If it appears that there was no reasonable and probable cause, by reason of the condition of a ship or the act or default of the owner thereof, for the provisional detention under this Chapter of a ship as an unsafe ship, the Government shall be liable to pay to the owner of the ship—

Liability for costs and damages.

(a) his costs of and incidental to the detention and survey of the ship; and

(b) compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government the costs of and incidental to the detention and survey of the ship ; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(3) For the purposes of this Act,—

(a) the costs of and incidental to any proceeding before a Court of Survey constituted under Part VIII; and

(b) a reasonable amount in respect of the remuneration of the persons appointed as Surveyors under paragraph (c) of subsection (2) of section 208, or any person appointed to represent the Government,

shall be part of the costs of the detention and survey of the ship.

(4) Any dispute as to the amount of the costs of the detention and survey of a ship may be referred to a Judge of the High Court who shall, on the request of the Minister, ascertain and certify the proper amount of those costs.

(5) An action for any costs or compensation payable by the Government under this section may be brought against the Attorney-General under Chapter XXXI of the Civil Procedure Code.

212. (1) Where a complaint is made to the Director, a Shipping Officer or a Surveyor, that a Sri Lanka ship is unsafe, such officer may require the complainant to give security to the satisfaction of such officer, for any costs and compensation which he may become liable to pay as mentioned in subsection (3).

(2) The security referred to in subsection (1) shall not be required where the complaint relating to a ship—

(a) is made by one-fourth, being not less than three, of the seamen belonging to the ship ; and

(b) is not in the opinion of the Director, Shipping Officer or Surveyor, as the case may be, frivolous or vexatious,

but in such case such officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint under subsection (1), and the circumstances are such that the Government is liable under section 211 to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

213. (1) Whenever in any proceedings against any seaman belonging to any ship for the offence of desertion or absence without leave, or for otherwise being absent from his ship without leave, it is alleged by one-fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship—

Survey of ship alleged by seamen to be unseaworthy.

(a) that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or any other reason not in a fit condition to go to sea; or

(b) that the crew accommodation in the ship is insufficient or does not comply with the requirements imposed by any regulations made under section 127,

the Court having cognizance of the case shall take such means as are in its power to satisfy itself concerning the truth or untruth of the allegation, and for that purpose,—

(i) shall receive the evidence of the person making the allegation;

(ii) may summon any other witnesses whose evidence it thinks it desirable to hear;

(iii) shall, if satisfied that the allegation is groundless, adjudicate in the case; and

Power to require complainant to give security for costs.

(iv) shall, if not satisfied that the allegation is groundless, before adjudication cause the ship to be surveyed.

(2) A seaman charged with desertion or with quitting his ship without leave shall not have a right to apply for a survey under this section, unless he has before quitting the ship complained to the master of the circumstances alleged by him to justify a survey of the ship.

214. (1) For the purpose of section 213, the Court shall require—

- (a) any Surveyor; or
- (b) if a Surveyor cannot be obtained without unreasonable expense or delay or is not in the opinion of the Court competent to deal with the special circumstances of the case, then, any other impartial Surveyor appointed by the Court and having no interest in the ship, her freight or cargo,

to survey the ship which is the subject of an allegation under such section, and to answer any question concerning such ship which the Court thinks fit to ask.

(2) A Surveyor appointed under subsection (1) to survey any ship shall—

- (a) survey such ship;
- (b) make a written report thereon to the Court; and
- (c) include in his written report an answer to every question put to him by the Court.

(3) On receiving a report under subsection (2), the Court shall—

- (a) communicate the report to the parties; and
- (b) unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, determine the question before it in accordance with those opinions.

(4) Any person making a survey of a ship under this section shall have for the purposes thereof all the powers conferred on an inspector by section 314.

215. (1) The costs, if any, of a survey of a ship made under section 214 shall be determined by the Chief Surveyor according to a scale of fees to be prescribed. Costs of survey.

(2) If it is proved that the ship is in a fit condition to go to sea, or that the accommodation therein is sufficient or complies with such requirements as may be prescribed, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of which allegation the survey was made; and such costs may be deducted by the master or owner of the ship from the wages due or to become due to that person, and shall be paid to the Government.

(3) If it is proved that the ship is not in a fit condition to go to sea, or that the accommodation therein is not sufficient or does not comply with such requirements as may be prescribed, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Government, and shall be liable to pay to the seaman who has been detained in consequence of the proceeding before the Court under section 213 such compensation as the Court may award.

PART VIII—COURTS OF SURVEY

216. In this Part, " Court of Survey" means a Court of Survey constituted under section 217. Interpretation.

217. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors. Constitution of court of Survey.

(2) The Judge shall be such person as is summoned for the case in accordance with rules made under section 220 out of a list approved by the Minister of Magistrates and other fit persons; but in any special case in which the Minister thinks it expedient, after consultation with the President of the Court of Appeal, to appoint a Judge of the High Court, such Judge shall be Judge of the Court of Survey.

Appointment of Surveyor.

(3) The assessors shall be persons of nautical, engineering or other special skill and experience.

(4) Subject to subsection (5), one of the assessors shall be appointed by the Minister, either generally or for the particular case, and the other shall be summoned by the Registrar of the Court of Survey from a list of persons periodically nominated for the purpose by the Chambers of Commerce of such port, in accordance with such rules as aforesaid, or, if there is no such list, shall be appointed by the Judge.

(5) Where the owner or master of a foreign ship appeals to a Court of Survey, the Consular officer for the country to which the ship belongs, acting on the request of such owner or master, or if there is no such Consular officer available the owner or master of such ship, may appoint a competent person to be a member of the Court of Survey in lieu of such person as would (had the ship been a Sri Lanka ship) have otherwise been summoned by the Registrar or appointed by the Judge under subsection (4).

(6) The Registrar of the Court of Survey shall be appointed by the Minister, and shall, on receiving notice of an appeal or reference under section 208, immediately summon the Court to meet forthwith, in such manner as may be prescribed by such rules as aforesaid.

(7) The name of the Registrar and his office, together with the rules made as aforesaid relating to Courts of Survey, shall be published in such manner as may be prescribed by such rules.

218. (1) The following provisions shall have effect in relation to a Court of Survey concerning any ship :—

- (a) the case shall be heard in open Court;
- (b) the Judge, each assessor, and any person appointed by the Judge may survey the ship and may go on board the ship and inspect the ship and every part thereof and the machinery, equipment and cargo, and may require the unloading and removal of any cargo, ballast or

tackle, and shall for such purpose have all the powers of an inspector under section 314;

(c) the Court may order the ship to be surveyed, and may appoint any competent person or persons to survey the ship and report thereon to the Court;

(d) the Judge shall have the same power as the Director has to order the ship to be released or finally detained but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released; and

(e) the owner and the master of the ship, and any person appointed by the owner or master, may attend at any inspection or survey made in pursuance of this section.

(2) The Court may make such order with respect to the costs of any inquiry or investigation under this Act as it may think fit, and such costs shall be recoverable in the same manner as a civil debt.

(3) Any person who wilfully impedes the Judge of the Court of Survey, or any assessor or other person, in the execution of any survey under this section, or fails to comply with any requisition made by him shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

219. The Judge of a Court of Survey shall send to the Minister such report as is directed by rules made under section 220, and each assessor shall either sign the report, or report to the Minister the reasons for his dissent.

Report of the court of Survey.

220. Rules may be made by the Supreme Court to carry into effect the provisions of this Act relating to Courts of Survey and, without prejudice to the generality of such powers, such rules may be made with respect to the summoning of and procedure before the Court, the form and sending of reports to the Minister, the requiring on an appeal of security for costs and damages, and the amount of fees.

Rules of procedure.

Power and procedure of Courts of Survey.

Reference in difficult cases to scientific referees.

221. (1) If the Minister is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty or important principle, he may refer the matter to such one or more out of a list of scientific referees from time to time approved by the Minister as appear to possess the special qualifications necessary for the particular case and may be selected by agreement between the Minister and the appellant or, in default of any such agreement, by the President, and thereupon the appeal shall be determined by the referee or referees, instead of by the Court of Survey.

(2) The Minister, if the appellant in any appeal so requires and gives security to the satisfaction of the Minister to pay the costs of and incidental to the reference, shall refer the appeal to the referee or referees selected under subsection (1).

(3) A referee or referees selected under subsection (1) shall have the same powers as a Judge of a Court of Survey.

Payments to officers of Courts, &c.

222. Such remuneration, if any, as the Minister may direct shall be paid by the Government to any Judge or assessor of a Court of Survey, any Registrar of a Court of Survey, any scientific referee, and any other officer or person appointed for the purpose of a Court of Survey, or any inquiries or investigations held under Part IV of this Act, or any formal inquiry under this Act.

Indemnity.

223. No action, suit or other proceeding shall be brought against any person for anything done or omitted to be done by him as a member of a Court of Survey.

PART IX—WRECK AND SALVAGE

CHAPTER I: PRELIMINARY

Interpretation.

224. In this Part, unless the context otherwise requires —

" receiver " means a receiver of wreck, and includes a deputy receiver;

" salvage " includes all expenses properly incurred by a salvor in the performance of salvage services;

" shipwrecked persons " means persons belonging to any ship referred to in section 227;

" vehicle " includes any vehicle of any description, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise;

" wreck " includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

225. (1) The Director shall be the Principal Receiver of Wrecks for Sri Lanka and shall have all the powers of a receiver of wrecks throughout Sri Lanka.

Appointment of Principal Receiver of Wrecks and receivers.

(2) The Principal Receiver of Wrecks shall exercise general direction and supervision over all matters relating to receivers, wreck and salvage.

(3) There may be appointed in any district any person to be a receiver of wrecks and to perform the duties of a receiver under this Part.

226. (1) There shall be paid to every receiver of wrecks the expenses properly incurred by him in the performance of his duties, and also in respect of such other matters as may be prescribed such fees as may be prescribed ; and such receiver shall not be entitled to any remuneration other than such payments.

Fees of receiver of wrecks

(2) A receiver of wrecks shall, in addition to all other rights and remedies for the recovery of the expenses and fees referred to in subsection (1), have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any receiver of wrecks in respect of expenses or fees, such dispute shall be determined by the Minister, whose decision shall be final-

(4) All fees received by a receiver of wrecks in respect of any services performed by him as such receiver shall be accounted for to the Government, and shall be applied in defraying any expenses duly incurred in

carrying this Act into effect and, subject to such application, shall be paid into the Consolidated Fund.

CHAPTER 2: VESSELS IN DISTRESS

227. (T) Where a Sri Lanka or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Sri Lanka or in any tidal water within Sri Lanka waters, the receiver of wrecks for the district in which that place is situated shall, upon being made acquainted with the circumstances,—

- (a) forthwith go to such place ,
- (b) upon his arrival at such place take command of all persons present;
- (c) assign such duties and give such directions to each person present as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel, and of the cargo and apparel of the vessel.

(2) Any person who, without reasonable excuse, wilfully disobeys the direction of the receiver shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees; but the receiver shall not interfere between the master and the crew of the ship in reference to the management thereof, unless he is requested to do so by the master.

228. (I) A receiver of wrecks may, with a view to the preservation of shipwrecked persons, or of a vessel, her cargo or, apparel—

- (a) require such persons as he thinks necessary to assist him;
- (b) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel as is in his power;
- (c) demand the use of any vehicle or draught animal that may be near at hand.

(2) Any person who refuses, without reasonable excuse, to comply with any

requisition or demand made under subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

229. (1) Whenever a Sri Lanka or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Sri Lanka, or any tidal water within Sri Lanka waters, all persons may, for the purpose of—

- (a) rendering assistance to the vessel;
- (b) saving the lives of shipwrecked persons;
- (c) saving the cargo and apparel of the vessel.

unless there in some public road equally convenient, pass and repass (either with or without vehicles or draught animals) over any adjoining lands, without being subject to interruption by the owner or occupier thereof, so however that they do as little damage as possible, and they may also (subject to the same conditions) deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by the owner or occupier of any land in consequence of the exercise of the rights given by subsection (1) shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part determined or recoverable.

(3) Any owner or occupier of any land who—

- (a) impedes or hinders any person in the exercise of the rights given by this section, whether by locking his gates or refusing upon request to open such gates, or otherwise ;
- (b) impedes or hinders the deposit of any cargo or other articles recovered from a vessel as aforesaid on the land; or

Duty of receiver where vessel is in distress.

Power of receiver in case of vessels in distress.

Powers to pass over adjoining lands.

(c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be recovered to a safe place of public deposit,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

Power of receiver to suppress plunder and disorder by force.

230. (1) Whenever a Sri Lanka or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Sri Lanka, or any tidal water within Sri Lanka waters, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, a receiver of wrecks may cause such person to be apprehended.

(2) A receiver of wrecks may use force for the suppression of any plundering, disorder or obstruction referred to in subsection (1), and may order any person to assist him in so using force.

(3) If any person loses his life, limb or sustains injury by reason of his resisting the receiver or any person acting under the orders of a receiver of wrecks in the execution of the duties entrusted to the receiver by this Part, neither the receiver nor the person acting under his orders shall be liable to any punishment or to pay any damages by reason of the person losing his life, limb or sustaining any injury.

Exercise of powers of receiver in his absence.

231. (1) Where a receiver of wrecks is not present, the following officers or persons in succession, each in the absence of the others, and in the order in which they are named, may do anything by this Part authorized to be done by such receiver, namely—

- (a) any chief officer of customs;
- (b) any Master Attendant;*
- (c) any Government Agent;
- (d) any Magistrate;

* In " specified ports " the functions of the Master Attendant are performed by the Sri Lanka Ports Authority- See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance.

(e) any Superintendent or Assistant Superintendent of Police;

(f) any divisional Assistant Government Agent;

(g) any officer of the armed forces of Sri Lanka.

(2) An officer acting under subsection (1)-

(a) shall, with respect to any goods or articles belonging to a vessel, the delivery of which to a receiver of wrecks is required by this Part, be considered the agent of the receiver;

(b) shall place such goods and articles in the custody of the receiver;

(c) shall not be entitled to any fees payable to receivers;

(d) shall not be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

232. (1) Where any Sri Lanka or foreign ship is or has been in distress on the coasts of Sri Lanka, a receiver or, in his absence, a Magistrate, shall, as soon as conveniently may be, examine on oath (which he is hereby empowered to administer) any person belonging to the ship, or any other person who is able to give any account thereof or of the cargo or stores thereof, as to the following matters:—

Examination in respect of ships in distress.

(a) the name and description of the ship;

(b) the name of the master and of the owners;

(c) the names of the owners of the cargo;

(d) the ports, from and to which the ship was bound ;

(e) the occasion of the distress of the ship;

(f) the services rendered ; and

(g) such other matters or circumstances relating to the ship or to the cargo on board the ship as the person holding the examination thinks necessary.

(2) The person holding the examination under subsection (1) in relation to any ship shall make a record thereof in writing, and shall send one copy to the Minister and another to the Director; and the Director shall if he shall think fit cause a copy of such record to be placed in a conspicuous place in the office of the Shipping Officer for the area in which such ship was in distress.

(3) The person holding an examination under subsection (1) shall for the purposes thereof have all the powers conferred on an inspector by section 314.

CHAPTER 3: DEALING WITH WRECK

Rules to be observed by persons finding wreck.

233. (1) Where any person finds or takes possession of any wreck within Sri Lanka, or of any wreck found or taken possession of outside Sri Lanka and brought within Sri Lanka, he shall—

(a) if he is the owner thereof, give notice to the receiver of the district in which such wreck may be stating that he has found or taken possession of such wreck and describing the marks by which the wreck may be recognized ; or

(b) if he is not the owner thereof, as soon as possible deliver the wreck to the receiver of such district.

(2) Any person who fails, without reasonable cause, to comply with the provisions of subsection (1) relating to any wreck shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees, and in addition shall, if he is not the owner thereof,—

(a) forfeit any claim to salvage in respect thereof;

(b) be liable to pay to the owner of the wreck, if it is claimed, or if it is unclaimed to the person entitled

thereto, double the value of wreck, to be recovered in the same way as a fine of like amount under this Act.

234. (1) Where a ship is wrecked, stranded or in distress at any place on or near the coasts of Sri Lanka, or any tidal water within Sri Lanka, any cargo or other articles belonging to or separated from the ship which are washed on shore or otherwise lost or taken from the ship shall be delivered to a receiver of wrecks,

Penalty for taking wreck at the time of casualty.

(2) Any person (whether or not the owner of any cargo or article) referred to in the preceding subsection, who—

(a) conceals or keeps possession of any such cargo or article ; or

(b) refuses to deliver any such cargo or article to a receiver of wrecks or any person authorized by the receiver to demand such cargo or article,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

(3) A receiver of wrecks, or any person authorized by the receiver to demand the delivery to him of any cargo or article referred to in subsection (1), may take such cargo or article by force from any person refusing to deliver it to him.

235. Where a receiver of wrecks takes possession of any wreck, he shall within forty-eight hours—

Notice of wreck to be given by receiver.

(a) cause to be posted at the nearest police station, and otherwise publish in such manner as he may deem fit, a description of the wreck and of any marks by which it is distinguished ; and

(b) if in his opinion the value of the wreck exceeds two hundred rupees, send a copy of such description to the Director.

236. (1) The owner of any wreck in the possession of a receiver upon establishing his claim thereto to the satisfaction of the receiver within one year from the time when

Claims of owners to wreck.

the wreck came into the possession of the receiver shall, on paying the salvage, fees and other expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where any wreck or other article belonging to or forming part of a foreign ship which has been wrecked on or near the coasts of Sri Lanka, or belonging to and forming part of the cargo thereof, is found on or near those coasts or is brought into any port in Sri Lanka, the Consular officer of the country to which the ship or, in the case of cargo, to which the owners of the cargo may have belonged, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the wreck or such article.

Immediate sale of wreck by receiver in certain cases,

237. (1) A receiver of wrecks may at any time sell any wreck in his custody, if in his opinion—

- (a) it is under the value of two hundred rupees;
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value to pay for warehousing.

(2) The proceeds of any sale made under subsection (1) shall, after defraying the expenses thereof, be held by the receiver for the same purposes, and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

Provisions as to duties, &c., on wrecked goods.

238. (1) All wreck, being foreign goods brought or coming into Sri Lanka, shall be subject to the same duties as those to which such goods would be subject if they were imported into Sri Lanka.

(2) If any question arises as to the origin of any goods referred to in subsection (1), they shall be deemed to be the produce of such country as the Principal Collector of Customs may on investigation determine.

(3) The Principal Collector of Customs shall permit—

- (a) all goods, wares or merchandise saved from any ship stranded or wrecked

on her homeward voyage to be forwarded to the port of her original destination; and

- (b) all goods, wares or merchandise saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped,

but the Principal Collector of Customs shall take security for the due protection of the Consolidated Fund in respect of those goods.

CHAPTER 4: UNCLAIMED WRECK

239. The State is entitled to all unclaimed wreck within any part of Sri Lanka or found or taken possession of outside Sri Lanka and brought within Sri Lanka, except in any place where the State has granted to any person the right to any such wreck.

Right to unclaimed wreck.

240. Where no owner establishes a claim to any wreck which—

Disposal of unclaimed wreck.

- (a) has been found in Sri Lanka or found or taken possession of outside Sri Lanka and brought into Sri Lanka; and
- (b) has been in the possession of a receiver of wrecks for one year,

the receiver shall sell such wreck and shall pay to the Government the proceeds of the sale, after deducting therefrom the expense of sale and any other expenses incurred by, and the fees payable to him, in respect thereof and paying thereout to the salvors such amount of salvage as the Minister in each case or by any general rule may determine.

241. Upon delivery of any wreck or payment of the proceeds of sale of any wreck by a receiver of wrecks in pursuance of this Part, the receiver shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck.

Delivery of unclaimed wreck by receiver not to prejudice title.

CHAPTER 5: REMOVAL OF WRECKS

Removal of wreck by harbour or conservancy authority.

242. (1) Where any vessel is sunk, stranded or abandoned in any harbour or tidal water under the control of a harbour or conservancy authority, or in any approach thereto in such manner as in the opinion of the authority to be or likely to be an obstruction or danger to navigation, or to life boats engaged in life boat service, in that harbour or water or in any approach thereto, that authority may—

- (a) take possession of, and raise, remove or destroy the whole or any part of the vessel;
- (b) light or buoy any vessel or part of such vessel until the raising, removal or destruction thereof;
- (c) subject to subsections (2) and (3), sell in such manner as that authority thinks fit any vessel or part so raised or removed, and also any other property recovered in the exercise of the powers of that authority under this section, and out of the proceeds of the sale reimburse itself for the expenses incurred by that authority in relation thereto under this section; and that authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto:

Provided, however, that such surplus shall be paid into the Consolidated Fund, unless such person establishes a claim thereto within three years of such sale.

(2) A sale shall not, except in the case of property which—

- (a) is of a perishable nature; or
- (b) would deteriorate in value by delay,

be made under this section, until at least seven clear days' notice of the intended sale has been given, either by advertisement in some local newspaper circulating in or near the district over which the authority referred to in subsection (1) has control, or in such other manner as that authority shall think fit.

(3) At any time before any property is sold under this section, the owner thereof shall be entitled to have such property delivered to him on payment to the authority referred to in subsection (1) of the fair market value thereof; and such value shall be ascertained by agreement between that authority and such owner or, failing such agreement, by some person to be named for the purpose by the Director.

(4) Any sum received by the authority referred to in subsection (1) in respect of any property under subsection (3) shall, for the purposes of subsection (1), be deemed to be the proceeds of sale of such property.

(5) If the proceeds of sale of any property sold under this section are less than the costs incurred by the authority referred to in subsection (1) when acting under this section, that authority may recover such difference from the owner of the vessel concerned by civil action.

243. The High Court exercising admiralty jurisdiction or any other Court, shall not, by itself or its agents, receive, take, or interfere with, any wreck except under the authority of, and in accordance with, the provisions of this Act. Prohibition of the receipt, &c., of wrecks by Admiralty Courts.

244. (1) If any person, being the owner of any vessel or any wrecked, submerged, sunken or stranded vessel or the agent or servant of such owner, wishes to break up such vessel prior to the removal thereof from Sri Lanka, such person shall before commencing salvage or breaking up operations, obtain the written permission of a receiver of wrecks. Breaking and removal of wrecks

(2) On receiving any application for permission for the breaking up of any vessel under this section, a receiver of wrecks shall, in his discretion, be entitled—

- (a) to grant such permission; and
- (b) to require security in such reasonable amount as he may consider necessary to ensure the effective removal of the vessel, or any portion thereof, from Sri Lanka.

(3) Any person who, without the previous written permission of a receiver of wrecks, does or causes to be done any salvage or breaking-up operations on any vessel or any wrecked, submerged, sunken or stranded vessel lying within Sri Lanka shall be guilty of an offence and on conviction thereof shall 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.

Powers of removal to extend to tackle, cargo, &c.

245. (1) The provisions of this Chapter relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel, in the same manner as if it were included in the term " vessel ".

(2) For the purpose of this Chapter, all proceeds of sale arising from a vessel and from the cargo thereof or any other property recovered therefrom, shall be regarded as a common fund.

Powers to be cumulative.

246. The powers conferred by this Part on a harbour or conservancy authority for the removal of wrecks shall be in addition to, and not in derogation of, any other powers conferred by any other written law.

Taking wreck to a foreign port.

247. Any person who takes into any foreign port and there sells any vessel, whether stranded, derelict or otherwise in distress, found in Sri Lanka or any part of the cargo or apparel thereof or anything belonging thereto, or any wreck found in Sri Lanka shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding four thousand rupees, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Boarding wreck, &c.

248. (1) A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress, unless he acts under the authority of a receiver of wrecks or a person lawfully acting as such.

(2) Any person who contravenes subsection (1) may be repelled by the master of the vessel by force, and shall also be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

249. (1) A person shall not—

Interfering with wreck, &c.

(a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded or otherwise in distress, on or near any coast or tidal water, or of any part of the cargo or apparel thereof, or of any wreck;

(b) conceal any wreck, or deface, or obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water, or any part of the cargo or apparel thereof, or any wreck.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

250. (1) Where a receiver of wrecks suspects or receives information—

Summary procedure for concealment of wreck.

(a) that any wreck is secreted or in the possession of some person who is not the owner thereof; or

(b) that any wreck is otherwise improperly dealt with,

he may apply to any Magistrate for a search warrant.

(2) On receiving an application from a receiver of wrecks under subsection (1), a Magistrate may grant a warrant to the receiver and the receiver may, by virtue thereof,—

(a) enter any house or other place wherever situate, and also any vessel, to search for any wreck referred to in subsection (1); and

(b) seize and detain any such wreck.

(3) If any seizure of a wreck is made by a receiver of wrecks under subsection (2) in consequence of any information given by any person to the receiver, such person shall be entitled by way of salvage to such sum, not exceeding in any case one hundred rupees, as the receiver may allow.

a reasonable amount of salvage, to be determined in case of dispute in the manner set out in this Chapter.

253. Nothing in section 251 or 252 shall entitle any person to remuneration—

Services to which sections 251 and 252 do not apply.

(a) in respect of services rendered contrary to an express and reasonable prohibition of such services on that part of the vessel to which such services are rendered ;

(b) in respect of services rendered by a tug to or in respect of the vessel which she is towing, or the cargo thereof, except where such services are of an exceptional character such as are outside the scope of the contract of towage;

(c) if he has caused the distress giving rise to the salvage, either intentionally or through negligence;

(d) if and to such extent as it appears that he has concealed or unlawfully disposed of any property salvaged.

Salvage of life. 251. (1) Where services are rendered—

(a) wholly or in part in Sri Lanka waters in saving life from any Sri Lanka or foreign wreck; or

(b) outside Sri Lanka waters, in saving life from any Sri Lanka vessel,

there shall be payable to the salvor by the owner of the vessel, cargo or apparel saved a reasonable amount of salvage, to be determined in case of dispute in the manner set out in this Chapter.

(2) Salvage in respect of the preservation of life, when payable by the owners of a vessel, shall be payable in priority to all other claims for salvage.

(3) Where a vessel, cargo and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the Minister in charge of the subject of Finance may in his discretion award to the salvor out of the Consolidated Fund, such sum as he, with the concurrence of the Minister, may determine, in whole or part satisfaction of any amount of salvage left unpaid.

254. Remuneration shall be payable under sections 251 and 252 in respect of services rendered, in spite of the fact that such services have been rendered by or to vessels in the same ownership.

Where both vessels belong to the same owner.

255. (1) Disputes as to the amounts of salvage, whether of life or property and whether rendered within or outside Sri Lanka arising between the salvor and the owners of any vessel, cargo, apparel or wreck shall, if not settled by agreement, arbitration or otherwise be determined summarily by a Sri Lanka Court in any case where—

Determination of salvage disputes.

(a) the parties to the dispute consent; or

(b) the value of the property saved does not exceed five thousand rupees; or

(c) the amount claimed does not exceed one thousand rupees.

Salvage of cargo.

252. (1) Where any vessel is wrecked, stranded or in distress at any place in, on or near the coasts of Sri Lanka or in any tidal water within Sri Lanka waters, and services are rendered—

(a) by any person in assisting the vessel or saving the cargo or apparel of the vessel, or any part thereof; or

(b) by any person (other than a receiver of wrecks) in saving any wreck,

there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck

(2) Subject to subsection (1), disputes as to salvage shall be determined by the High Court, but if the claimant does not recover

in the High Court more than one thousand rupees, he shall not be entitled to recover any costs, charges or expenses incurred by him in the prosecution of his claim, unless the Court certifies that the case is a fit one to be tried by the High Court.

(3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or their respective agents.

Power of High Court in relation to salvage agreements.

256. Every agreement relating to salvage entered into urgently and under the influence of danger may, at the request of either party thereto, be annulled or modified by the High Court, if the High Court considers that the conditions of such agreement are not reasonable.

Summary determination of salvage disputes.

257. (1) Disputes relating to salvage which are to be determined summarily as set out in section 255 shall,—

- (a) where the dispute relates to the salvage of a wreck, be referred to the District Court having jurisdiction at or near the place where the wreck is found ; or
- (b) where the dispute relates to salvage in the case of services rendered to any ship or to the cargo or apparel thereof or in saving life therefrom, be referred to the District Court having jurisdiction at or near the port in Sri Lanka into which the ship is first brought after the occurrence by reason whereof the claim for salvage arises.

(2) A District Court may, for the purpose of determining any such dispute, call in to its assistance any person conversant with maritime affairs as assessor, and there shall be paid to every such assessor in respect of his services and as part of the costs of the proceedings, such sum as the Minister may direct.

Appeal in case of salvage disputes.

258. Where a dispute relating to salvage has been determined by the High Court, any party aggrieved by the decision may appeal therefrom, in accordance with rules of Court, in like manner as in the case of any other judgment of the Court:

Provided that no such appeal shall be allowed unless the sum in dispute exceeds five hundred rupees.

259. (1) Where any dispute relating to salvage arises, the receiver of wrecks of the district where the property is in respect of which the salvage claim is made may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

Valuation of property by receiver.

(2) Any copy of a valuation made under subsection (1) purporting to be signed by the valuer and to be certified as a true copy by the receiver shall be admissible in evidence in any subsequent proceedings.

(3) Such fee as the Minister may direct shall be paid in respect of any valuation made under this section, by the person applying for such valuation.

260. (1) Where salvage is due to any person under this Act, a receiver of wrecks shall,—

Detention of property liable to salvage by receiver.

- (d) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and
- (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Subject as hereinafter mentioned, the receiver shall detain the vessel and the cargo or apparel, or the wreck, until payment is made for salvage, or process is issued for the arrest or detention by a Court.

(3) A receiver may release any vessel, cargo, apparel or wreck detained under this section, if security is given—

- (a) to his satisfaction; or
- (b) if the claim for salvage exceeds one thousand rupees, and any question is raised as to the sufficiency of the security, to the satisfaction of a Judge of the High Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding one thousand rupees may be enforced by a competent Court in the same manner as if bail had been given in that Court.

261. (1) A receiver of wrecks may sell any vessel, cargo, apparel or wreck detained by him under section 260, if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases;—

- (a) where the amount is not disputed and payment of the amount due is not made, within twenty days after the amount is due;
- (b) where the amount is disputed but no appeal lies from the decision of the first Court to which the dispute is referred, and payment is not made, within twenty days after the decision of the first Court;
- (c) where the amount is disputed and an appeal lies from the decision of the first Court to which the dispute is referred to some other Court, and within thirty days after the decision of the first Court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal or of obtaining leave to appeal.

(2) The proceeds of sale of any vessel, cargo, apparel or wreck shall, after payment of the expenses of the sale, be applied by a receiver of wrecks in payment of the expenses, fees and salvage and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled thereto and in the absence of such persons to the Consolidated Fund.

262. Where any dispute arises as to the apportionment of any amount of salvage among the owners, master, pilot, crew and other persons in the service of any foreign vessel, the amount shall be apportioned by the Court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

263. (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Sri Lanka has been finally determined, either summarily in the manner provided by this Chapter or by agreement, and does not exceed two thousand rupees, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay such amount may apply to a receiver of wrecks for liberty to pay such amount to him.

(2) The receiver shall, if he thinks fit, receive the amount referred to in subsection (1) accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid.

(3) A certificate granted under subsection (2) in respect of any amount shall be a full discharge and indemnity to the person by whom the amount is paid and to his vessel, cargo, apparel and effects, against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(4) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled thereto on such evidence and in such shares and proportions as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(5) A distribution of any amount made by a receiver of wrecks in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

264. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in Sri Lanka has been finally ascertained and exceeds two thousand rupees, and whenever the aggregate amount of salvage payable in respect of salvage services rendered outside Sri Lanka has been finally ascertained (whatever that amount may be), then, if any delay or dispute arises as to the apportionment thereof, the High Court—

- (a) may cause such amount to be apportioned amongst the persons entitled thereto in such manner as it

Apportionment of salvage not exceeding two thousand rupees by receiver.

Apportionment of salvage by High Court.

Sale of detained property.

Apportionment of salvage amongst owners, &c.. of foreign vessel.

thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect;

(b) may compel any person in whose hands or under whose control the amount may be to distribute such amount or to bring it into Court, to be there dealt with as the Court directs; and

(c) may for the purposes aforesaid issue such processes as it thinks fit.

265. (1) Where civil salvage services are rendered by any ship of the Sri Lanka Navy, any aircraft of the Sri Lanka Air Force, or any other ship or aircraft belonging to or chartered by the Government, the Government shall (subject to any regulations made under this section) be entitled to claim salvage in respect of those services to the same extent, and shall have the same rights and remedies, as any other salvor.

(2) Subject to the provisions of any law for the time being in force relating to proceedings against the Government, and of any regulations made under this section, the provisions of this Chapter (except and to such extent as may be prescribed) shall apply in relation to salvage services rendered in assisting any ships of the Sri Lanka Navy or any aircraft of the Sri Lanka Air Force, or in saving life therefrom, or in saving any cargo or equipment belonging to the Government, in the same manner as if the ship or aircraft or cargo or equipment belonged to a private person.

(3) No claim shall by virtue of this section lie against the Government in respect of anything done or suffered in relation to any postal article, as defined by section 88 of the Post Office Ordinance.

(4) The Minister may make regulations providing for the application or modification of the provisions of this Chapter to ships and aircraft referred to in subsection (1) and in relation to the services referred to in subsection (2).

PART X—LEGAL PROCEEDINGS

CHAPTER 1 : CASUALTIES

266. For the purpose of investigations and formal inquiries under this Part, a shipping casualty shall be deemed to occur—

(a) when on or near the coast of Sri Lanka any ship is lost, abandoned or materially damaged ;

(b) when on or near the coast of Sri Lanka any ship has been stranded or damaged, and any witness is found in Sri Lanka;

(c) when any ship causes loss or material damage to any other ship on or near the coast of Sri Lanka;

(d) when any loss of life occurs by reason of any casualty happening to or on board any ship on or near the coast of Sri Lanka;

(e) when in any place any such loss, abandonment or material damage or any casualty as last aforesaid occurs and any witness is found in Sri Lanka;

(f) when in any place any ship registered in Sri Lanka is stranded or damaged and any witness is found in Sri Lanka; or

(g) when some members of the crew of a ship which has been wrecked or to which a casualty has occurred, who are competent witnesses to the fact are found in Sri Lanka.

267. (1) When a shipping casualty occurs, a preliminary inquiry may be held by the receiver of wrecks residing at or nearest to the place at which the casualty occurs or by any person appointed in that behalf by the Director.

(2) For the purpose of any investigation under subsection (1), the person holding the same shall have all the powers of an inspector under this Act.

268. (1) A person authorized under section 267 to make a preliminary inquiry shall in any case where it appears to him

Shipping casualties

Preliminary inquiry into shipping casualties,

Formal investigation as to shipping casualties.

Application to the Government.

requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation should be made, and in any case where the Director so directs, apply to a District Court to make a formal investigation, and such District Court shall thereupon make a formal investigation.

(2) The District Court making any such formal investigation shall make the same with the assistance of one or more assessors of nautical, engineering or other special skill or knowledge to be appointed out of a list of persons appointed from time to time for the purpose by the Minister, in such manner as may be laid down by the rules made under section 280 with regard thereto.

(3) Where a formal investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of the master, mate or engineer, the District Court shall make the formal investigation with the assistance of not less than two assessors having experience in the merchant service.

(4) It shall be the duty of the person who has applied to the District Court to make a formal investigation to supervise the management of the case and to render such assistance to the District Court as is in his power.

(5) The Court, after hearing the case, shall make a report to the Director containing a full statement of the case and of the opinion of the Court thereon, accompanied by such report of, or extracts from, the evidence, and such observations as the Court thinks fit.

(6) Where the investigation or inquiry affects a master or an officer of a ship who holds a certificate under the law of any country outside Sri Lanka, the Director may transmit a copy of the report of the Court to the proper authority in that country.

(7) Each assessor shall either sign the report or state in writing to the Director his dissent therefrom and the reasons for that dissent.

(8) The Court may make such order as the Court thinks fit respecting the costs of the investigation or any part thereof and such order shall be enforced by the Court as an order for costs in its ordinary Jurisdiction.

(9) The Director may, if in any case he thinks fit so to do, pay the costs of any such formal investigation.

(10) For the purposes of this section, the Court holding a formal investigation shall have all the powers it has when acting as a Court in the exercise of its ordinary Jurisdiction.

(11) Every formal investigation into a shipping casualty shall be conducted in such manner that, if a charge is made against any person, that person shall have an opportunity of making a defence.

(12) A formal investigation made by a District Court as to a shipping casualty shall be made at the place appointed by the Minister in charge of the subject of Justice as the place at which such District Court is to be holden.

269. (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate, or engineer as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

Power of Court of investigation to inquire into charges against masters, mates and engineers.

(2) In every case in which any such charge, whether of incompetency or misconduct or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall before the commencement of the inquiry, cause to be furnished to him a statement of the case upon which the inquiry has been directed.

270. (1) If the Director has reason to believe that there are grounds for charging any master, mate or engineer, with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Director—

Power of Director to direct inquiry into charges of incompetency or misconduct.

(a) if the master, mate or engineer holds a certificate under this Act, in any case;

(b) if the master, mate or engineer holds a certificate under the law of any country outside Sri Lanka, in any case where the incompetency or misconduct has occurred on board a Sri Lanka ship,

may transmit a statement of the case to any Court having jurisdiction under section 269, which is at or nearest to the place where it may be convenient for the parties and witnesses to attend and may direct that Court to make an inquiry into that charge and the Court holding an inquiry under this section will have the same powers and be subject to the same rules as the Court holding a formal investigation under section 268.

(2) Before commencing the inquiry the Court shall cause the master, mate or engineer, so charged to be furnished with a copy of the statement transmitted by the Director.

Power to arrest witnesses and enter ships.

271. If any court making an investigation or inquiry under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest and may for the purpose of effecting the arrest authorize any officer, subject, nevertheless to any general or special instructions from the Director, to enter any vessel, and any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officer of police or customs or any other person.

Power to commit for trial and bind over witnesses.

272. Whenever in the course of any such investigation or inquiry it appears that any person has committed in Sri Lanka an offence punishable under any law in force in Sri Lanka, the Court making the investigation or inquiry may (subject to such rules consistent with this Act as the Supreme Court may from time to time make) cause him to be arrested or commit him or hold him to bail to take his trial before the proper court and may bind over any person to give evidence at the trial, and may, for the purposes of this section exercise all its powers as a criminal court.

Power of Courts as to certificates.

273. (1) The certificate of a master, mate or engineer of a ship may be cancelled or suspended—

(a) by a Court holding a formal investigation into a shipping

casualty under this Part if the Court finds that the loss or abandonment of, or serious damage to, any ship or loss of life has been caused by his wrongful act or default, so however that the Court shall not cancel or suspend a certificate unless at least one of the assessors concurs in the finding of the Court; or

(b) by a Court holding an inquiry under this Part into the conduct of a master, mate or engineer of a ship if the Court finds that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny or that in a case of collision he has failed to render such assistance or give such information as is required by Part VII.

(2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.

(3) Where the Court cancels or suspends a certificate, the Court shall forward it to the Director together with the report which it is required by this Part to transmit to him.

274. Where it appears to the Court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under section 273 is not justified, the Court may pass an order censuring the master, mate or engineer in respect of his conduct.

Power of Court to censure master, mate or engineer of a ship.

275. (1) The High Court exercising admiralty jurisdiction may remove the master of any ship within the jurisdiction of that Court, if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

Power of Court to remove master of a ship and appoint new master.

(2) The removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated officer, or one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

276. (1) A master, mate or engineer of a ship whose certificate is cancelled or suspended by any Court or by the Director shall deliver his certificate—

(a) if cancelled or suspended by a Court to that Court on demand ; or

(b) if not so demanded, or if it is cancelled or suspended by the Director, to the Director.

(2) If a master, mate, or engineer of a ship fails to comply with the provisions of this section, he shall, for each offence, be liable to a fine not exceeding five hundred rupees.

277. The cancellation or suspension of a certificate by the Director or by a Court

(a) if the certificate was issued under this Act be effective everywhere and in respect of all ships ;

(b) if the certificate was issued outside Sri Lanka be effective—

(i) within Sri Lanka and the territorial waters of Sri Lanka in respect of all ships ; and

(ii) outside Sri Lanka in respect of Sri Lanka ships only.

278. If the certificate of a master, mate, or engineer of a ship is suspended under this Part by the Director or by a Court, no endorsement shall be made to that effect on the said certificate.

279. (1) The Minister in charge of the subject of Justice, acting on the recommendation of the Minister, may, in any case where under this Part a formal

investigation into a shipping casualty or an inquiry into the conduct of a master, mate or engineer of a ship has been held, order the case to be reheard either generally or as to any part thereof, and shall do so—

(a) if new and important evidence which could not be produced at the investigation or inquiry has been discovered; or

(b) if for any other reason there has in his opinion been ground for suspecting that a miscarriage of justice has occurred.

(2) The Minister in charge of the subject of Justice may order the case to be reheard either by the Court by whom the case was heard in the first instance or by the High Court.

(3) Where on any such investigation or inquiry a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer of a ship and an application for a rehearing under this section has not been made or has been refused, an appeal shall lie from that decision to the Court of Appeal.

(4) Any rehearing or appeal under this section shall be made in accordance with the provisions of the rules relating thereto referred to in this Part.

280. (1) Rules may be made in the manner provided by Article 136 of the Constitution for carrying into effect the enactments relating to formal investigations, and to the rehearing of or an appeal from any investigation or inquiry held under this Part, and in particular with respect to the appointment and summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees and the place in which formal investigations are to be held.

(2) Any rule made under this section while in force shall have effect as if it were enacted in this Act.

The delivery of certificate cancelled or suspended.

Effect of cancellation or suspension of certificate.

Suspended certificate not to be endorsed.

Rehearing of an appeal from inquiries and investigations.

Rules relating to inquiries and investigations.

Powers of Director to cancel, suspend, &c., certificate of master, mate, or engineer of a ship.

281. Any certificate which has been granted under this Act to any master, mate, or engineer of a ship may be cancelled or suspended for any specified period, by the Director in the following cases ;—

(a) if, on any investigation or inquiry made by any Court, tribunal or other authority for the time being authorized by the legislative authority in any country outside Sri Lanka, the Court, tribunal, or other authority reports that the master, mate, or engineer of the ship is incompetent or has been guilty of any gross act of misconduct or drunkenness or tyranny, or in a case of collision has failed to render assistance or to give such information as is referred to in Part VII of this Act, or that the loss, stranding or abandonment or damage to any ship, or loss of life, has been caused by his wrongful act or default;

(b) if the master, mate, or engineer of the ship is proved to have been convicted—

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in Sri Lanka; or

(ii) of an offence committed outside Sri Lanka, which if committed in Sri Lanka would be a non-bailable offence, or

(c) if (in the case of a master of a Sri Lanka ship) he has been superseded by the order of any Court of competent jurisdiction in Sri Lanka or outside Sri Lanka.

282. (1) Neither a conviction for an offence in any court nor an order for payment of money shall be made under this Act in any summary proceedings instituted in any District Court or Primary Court under the provisions of the Civil Procedure Code relating to summary procedure on liquid claims,—

(a) unless such proceedings are commenced within six months after

the commission of the offence or after the cause of complaint arises, as the case may be ; or

(b) if both, or either of, the parties to the proceedings happen or happens during that time to be out of Sri Lanka, unless the proceedings are commenced, in the case of—

(i) a conviction, within two months, and

(ii) an order, within six months after they both first happen to arrive, or to be at one time, in Sri Lanka.

(2) No written law for the time being in force which limits the time within which proceedings may be instituted in any Magistrate's Court, or in any District Court or Primary Court as aforesaid, shall affect any proceedings under this Act.

283. (1) Where any person is beneficially interested (otherwise than by way of mortgage) in any ship or share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, shall be subject to all pecuniary penalties imposed by this or any other Act on the owners of ships or shares therein.

Liability of shipowners.

(2) Proceedings may be taken for the enforcement of any penalties referred to in subsection (1) against both or either of the parties referred to therein, with or without joining the other of them.

284. (1) Where any body corporate, firm, society or other body of persons is charged with an offence under this Act, every person who at the time of the alleged offence was a director, manager, secretary or other similar officer or a partner of the body corporate, firm, society or body, or was purporting to act in such capacity, shall be liable to the penalties provided for such offence as if he himself were guilty thereof, unless he proves—

Offences by bodies of persons, servants and agents.

(a) that the offence was committed without his knowledge and that such ignorance was not caused by his wilful default or neglect; or

Limitation of time for summary proceedings.

(b) that having regard to the nature of his functions in that capacity and to all the circumstances, he exercised all due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act to any penalty for any act, omission, neglect or default, he shall be liable to the same penalty for every such act, omission, neglect or default of any clerk, servant or agent, or of the clerk or servant of such agent, provided that such act, omission, neglect or default was committed—

- (a) by such clerk or servant in the course of his employment;
- (b) by such agent when acting on behalf of such person; or
- (c) by the clerk or servant of such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Who may prosecute.

285. Prosecutions in respect of offences under this Act may (without prejudice to the provisions of any other written law relating to prosecutions) be conducted by a Shipping Officer or by any other officer appointed under this Act and specially authorized in writing in that behalf by the Director.

Compounding of offences.

286. (1) The Director may compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one thousand rupees.

(2) A Shipping Officer may compound any offence under this Act which is prescribed to be a compoundable offence by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one hundred rupees.

(3) On the payment of any sum of money under subsection (1) or subsection (2),—

- (a) the person reasonably suspected of having committed the offence in

respect of which the payment has been made shall, if in custody, be discharged;

(b) any ship detained in respect of such offence shall be released ; and

(c) no further proceedings shall be taken against such person or ship in respect of such offence.

CHAPTER 2: JURISDICTION

287. Subject to any express provision of this Act to the contrary, any offence under this Act shall be and is hereby declared to be fully cognizable and punishable by Magistrates' Courts, and all sums becoming due by reason of any provisions of this Act or any subsidiary legislation made hereunder shall be and are hereby declared to be recoverable before Primary Courts, although such offences and sums should exceed the ordinary jurisdiction of such Courts.

288. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either—

(a) in the place in which such offence or cause of complaint was committed or arose; or

(b) in any place in which the alleged offender or person complained against may be.

289. Where any district within which any Court has jurisdiction under this Act or any other Act or law for any purpose whatsoever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river or other navigable water, every such Court shall have jurisdiction—

- (a) over any ship, whether a Sri Lanka or a foreign ship, being on or lying or passing off that coast or being in or near that bay, channel, lake, river or navigable water; and

(b) over all persons on board such ship or for the lime being belonging thereto,

in the same manner as if such ship or persons were within the limits of the original jurisdiction of the Court.

Jurisdiction in case of offences on board ship.

290. Where any person—

(a) being a citizen of Sri Lanka, is charged with having committed any offence—

(i) on board any Sri Lanka ship on the high seas ; or

(ii) in any foreign port or harbour; or

(hi) on board any foreign ship to which he does not belong; or

(b) not being a citizen of Sri Lanka, is charged with having committed any offence on board any Sri Lanka ship on the high seas,

and that person is found within the jurisdiction of any court in Sri Lanka which would have had cognizance of the offence if it had been committed on board a Sri Lanka ship within the limits of its ordinary jurisdiction, that court shall have power to try the offence as if it had been so committed.

Application of Fines.

291. (1) Where any court imposes a fine under this Act for which no specific application is provided herein, the Court may if it thinks fit direct the whole or any part of the fine—

(a) to be applied in compensating any person for any wrong or damage which he has sustained by the act or default in respect of which the fine is imposed; or

(b) to be applied in or towards payment of the costs and expenses of the proceedings.

(2) Subject to any direction under subsection (1) or any specific application provided under this Act, every fine referred to in subsection (1) shall be paid into the Consolidated Fund-

292. Nothing in this Act shall be deemed to prevent the prosecution, conviction and punishment of any person according to any other written law for the time being in force in Sri Lanka or any part thereof, so however that no person shall be punished more than once for the same offence.

Conviction under other law.

CHAPTER 3: DETENTION OF AND DISTRESS ON SHIP

293. (1) Without prejudice to the provisions of any other written law, whenever any injury has, in any part of the world, been caused—

Power to arrest foreign ship that has occasioned damage.

(a) by any foreign ship ; and

(b) to any property belonging to the Government or to any local authority, or to any statutory authority exercising powers vested in it by any written law, or any citizen of Sri Lanka,

and thereafter that ship is found in Sri Lanka, a Judge of the High Court may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master, pilot or mariners of such ship, issue an order under this section.

(2) An order under this section shall be addressed to any Shipping Officer, or such other officer as may be named by the Judge in such order, and shall require such officer to detain the ship named or identified therein, until such time as the owner, master or consignee thereof—

(a) has made satisfaction in respect of the injury referred to in subsection (1); or

(b) has given security, to be approved by the Judge, to abide the event of any action, suit or other legal proceeding that may be instituted in respect of such injury, and to pay all costs and damages that may be awarded,

and any Shipping Officer or other officer to whom such order is addressed shall detain the ship accordingly.

(3) Where it appears that, before an application can be made under subsection (1), the ship in respect of which the application is made will have departed from Sri Lanka, such ship may be detained for such time as will allow the application to be made and the result thereof to be communicated to the officer detaining the ship; and that officer shall not be liable for any costs or damages in respect of the detention, unless such detention is proved to have been made without reasonable grounds.

(4) In any legal proceedings relating to any injury referred to in subsection (1), the person giving security shall be made defendant, and shall be stated to be the owner of the ship that has caused the injury.

(5) The production of an order of a Judge, made in relation to any security referred to in this section, shall be conclusive evidence of the liability of the defendant to the proceedings.

294. (1) Where under this Act or any other written law in force in Sri Lanka or any part thereof a ship is to be or may be detained, an authorized officer (as defined in subsection (7)) may detain the ship.

(2) If, after the detention of a ship or after service on the master of a ship of any notice of or order for the detention of the ship, such ship goes to sea before it is released by the competent authority,—

- (a) the master of the ship ; and
- (b) the owner and any person who sends the ship to sea, if that owner or person is party or privy to the offence,

shall each be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two thousand rupees.

(3) An authorized officer may if he thinks it necessary to do so place a police guard on any ship detained under this section.

(4) Where a ship going to sea takes to sea when any authorized officer, police guard or

Surveyor is on board thereof in the execution of his duties, the owner and master of the ship shall each be liable—

- (a) to pay all expenses of and incidental to such officer, guard or Surveyor being so taken to sea; and
- (b) on conviction, to a fine of two hundred rupees for every day until such officer, guard or Surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken,

and the expenses ordered to be paid may be recovered in like manner as the fine.

(5) Any police guard placed on board a ship under subsection (2) is hereby authorized to take such steps as are necessary to prevent the ship from leaving port.

(6) Any person who opposes or in any way obstructs any authorized officer, police guard or Surveyor shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one thousand rupees.

(7) In this section "authorized officer" means the Director, a Master Attendant,* a Shipping Officer, an officer of customs, a Ship Surveyor, any commissioned officer of the armed forces, and any person specially or generally authorized by the Director to detain a ship.

295. (1) Where under this Act or any other written law a ship is to be detained, a Shipping Officer shall, and where under this Act or any other written law a ship may be detained a Shipping Officer may, notify the proper officer of customs that such ship is liable to be detained.

Proper officer of customs to be informed of detention of ship.

(2) Where a notification under subsection (1) has been made to any officer of customs in respect of any ship, such officer shall refuse to clear that ship outward and to grant such ship a clearance under section 63 of the Customs Ordinance.

* In " specified ports " the functions of the Master Attendant are performed by the Sri Lanka Ports Authority- See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance.

Enforcing detention of ship.

(3) In this section "proper officer" has the meaning assigned thereto by the Customs Ordinance.

(b) the master or a seaman employed in such a ship dies in a country outside Sri Lanka,

Cost of detaining ship.

296. Where a ship is detained in pursuance of any provisions of this Act which provides for the detention of a ship until a certain event occurs, subsection (2) of section 211 shall apply as if the ship had finally been detained within the meaning of that section.

an inquiry into the cause of death shall be held by the Shipping Officer or the proper officer at the next port where the ship calls after the death and where there is a Shipping Officer or proper officer, or at such other port as the Director may direct.

Notice to Consular officer on detention of foreign ship.

297. (1) Whenever—

(2) The Shipping Officer or proper officer holding an inquiry under subsection (1) shall for the purposes of the inquiry have the powers conferred on an inspector by section 314.

(a) any foreign ship is detained under this Act; and

(b) any proceedings are taken under this Act against the master or owner of such ship,

(3) The officer holding the inquiry under subsection (1) shall make a report of his findings to the Director, and the Director shall, on request, make a copy of the report available to the next of kin of the deceased person or to any other person who appears to the Director to be interested.

notice shall forthwith be served on the Consular officer for the country to which the ship belongs at or nearest the port where the ship is for the time being.

(2) The notice to be served under subsection (1) shall specify the grounds on which the ship has been detained or on which the proceedings have been taken.

(4) No inquiry shall be held under subsection (1) in a case where an inquest or inquiry into death is to be held or made under any law for the time being in force relating to inquests or criminal procedure.

Sums ordered to be paid leviable by distress on ship.

298. Where any court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if—

(5) In this section "proper officer" means, in relation to a port outside Sri Lanka, a Consular officer of Sri Lanka.

(a) the party directed to make such payment is the master or owner of a ship; and

(b) such wages, fine or sum is not paid at the time and in the manner prescribed in the order,

the court which made the order may (in addition to any other powers which it has for the purpose of compelling payment) direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel-

CHAPTER 5: EVIDENCE AND SERVICE OF DOCUMENTS

300. (1) Whenever in the course of any legal proceedings instituted under this Act before any court or before any person authorized by law or by the consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of that proceeding, then, upon due proof that the witness cannot be found in Sri Lanka, any deposition that the witness has previously made on oath or affirmation in relation to the same subject-matter before any Judge or Magistrate in any part of the Commonwealth other than Sri Lanka, or before any Consular officer of Sri Lanka in any place not within the Commonwealth, shall be admissible in evidence:

Depositions to be received in evidence where witness cannot be produced.

CHAPTER 4: INQUIRIES INTO DEATHS

Inquiries into deaths of crew members and others.

299. (1) Subject to subsection (4), where—

(a) any person dies in a ship registered in Sri Lanka; or

Provided that—

- (a) if the proceedings are criminal, a deposition so made shall not be admissible, unless it was made in the presence of the person accused ; and
- (b) no deposition so made shall be admissible, unless it is authenticated by the signature of the Judge, Magistrate or Consular officer before whom it was made, and unless such Judge, Magistrate or Consular officer has certified (if the fact is so) that the accused was present at the taking thereof.

(2) A deposition made in the manner referred to in subsection (!) shall be deemed to be duly authenticated if it purports to have been signed by the Judge, Magistrate or Consular officer before whom it was made; and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition.

(3) In any criminal proceedings, a certificate purporting to have been signed by the Judge, Magistrate or Consular officer before whom a deposition was made that the accused was present at the taking of the deposition shall, unless the contrary is proved, be sufficient evidence of the accused having been present in the manner thereby certified.

(4) Nothing in this section shall affect any case in which depositions taken in any proceedings are rendered admissible in evidence by any other written law.

301. Where any document is required by this Act to be executed in the presence of, or to be attested by, any witness or witnesses, such document may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses, or any of them.

302. (1) Where any document is by this Act declared to be admissible in evidence, such document shall,—

- (a) on its production from proper custody, be admissible in evidence

in any court before any person having by law or consent of parties authority to receive evidence ; and

- (b) subject to all just exceptions, be evidence of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

(2) A copy of any document referred to in subsection (1), or any extract therefrom, shall also be admissible in evidence—

- (a) if it is proved to be an examined copy or extract; or
- (b) if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted,

and that officer shall provide such a certified copy or extract to any person applying therefor at a reasonable time, upon payment of the prescribed fee.

(3) Any person having by law or consent of parties authority to receive evidence shall have the same powers as a court to impound any document referred to in this section which has a false or counterfeit seal, stamp or signature affixed thereto.

303. Where by or under this Act any Notices, &c., to be in writing. notice, authority, order, direction or other communication is required or authorized to be given or made by the Director to any person (not being an officer appointed under this Act), the same shall be made or given in writing.

304. (1) Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a) in any case, by delivering a copy thereof personally to the person to be served, or by leaving such copy at his last known place of abode or by transmitting or sending such copy by post;
- (b) if the document is to be served on the master of a ship (where there is a master), or on a person belonging

Proof of attestation not required.

Admissibility of documents in evidence.

Service of documents.

to a ship, by leaving such document for him on board that ship with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship, and there is no master and the ship is in Sri Lanka, on the managing owner of the ship or, if there is no managing owner in Sri Lanka, on some agent of the owner residing in Sri Lanka or, where no such agent is known or can be found, by affixing a copy thereof in some conspicuous place in the ship.

(2) Any person who obstructs the service on the master of a ship of any document under this Act relating to the detention of the ship as unseaworthy shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

(3) Any owner or master of a ship who is party or privy to any obstruction referred to in subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five thousand rupees, or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

CHAPTER 6: PROTECTION OF OFFICERS

305. Every officer appointed under this Act and every person appointed or authorized under this Act, for any purpose of this Act, when acting in any area in pursuance of such purpose shall be deemed to be a public servant within the meaning of the Penal Code.

306. A suit shall not be maintained against any public servant within the meaning of the Penal Code for or in respect of anything done or omitted to be done by him in good faith in the exercise or performance, of any power, authority or duty conferred or imposed on him by or under this Act.

* In " specified ports " the functions of the Master Attendant are performed by the Sri Lanka Ports Authority- See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance.

PART XI—SUPPLEMENTAL

CHAPTER 1 : ENFORCEMENT OF ACT

307. In this Chapter, " authorized officer " means—

interpretation of certain terms in this Chapter.

- (a) the Director;
- (b) a Master Attendant ;*
- (c) a Shipping Officer;
- (d) the Chief Surveyor;
- (e) a Surveyor;
- (f) a radio Surveyor;
- (g) any person appointed by the Director, either generally or in a particular case, to exercise powers under this Act.

308. (1) Any authorized officer, either alone or with any other person, may go on board any ship in Sri Lanka whenever—

Powers of authorized officers to board ships.

- (a) he suspects that any offence under this Act has been or is about to be committed in any ship ; or
- (b) he considers it necessary for him to do so in the discharge of any duty imposed on him by this Act or any other written law.

(2) If a ship is registered in Sri Lanka, the powers conferred by this section may also be exercised outside Sri Lanka by a Consular officer of Sri Lanka, in addition to an authorized officer.

(3) Any master of a ship who, without reasonable excuse, refuses to allow any officer to board such ship in the exercise of the powers conferred on him by subsection (1) or (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

309. (1) Where an authorized officer has reason to suspect that any provision of this Act or any law for the time being in

Power of requiring production of documents, &c.

All officers, &c., to be public servants.

Protection of public servants.

force relating to merchant shipping, merchant seamen or navigation is not being complied with, he may—

- (a) require the owner, master or any of the crew of any Sri Lanka ship to produce any official log-books or other documents relating to the crew or any member thereof in their respective possession or control;
- (b) require any such master to produce a list of all persons on board his ship, and to take copies of the official tog-books or documents, or any part thereof;
- (c) muster the crew of such ship;
- (d) summon the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.

(2) If any person, on being duly required by an authorized officer under this section,—

- (a) fails without reasonable cause to produce to that officer any such official tog-book or document as he is required to produce under this section;
- (b) refuses to allow such book or document to be inspected or copied;
- (c) impedes any muster of the crew required under this section ;
- (d) refuses or neglects to give any explanation which he is required under this section to give; or
- (e) knowingly misleads or deceives any officer authorized under this section to demand any explanation,

he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

duly complied with, an authorized officer may at all reasonable times inspect any ship and its equipment or any part thereof, any articles on board the ship and any document carried in the ship in-pursuance of this Act or any international convention relating to merchant shipping to which Sri Lanka is a party; and if the ship is registered in Sri Lanka the powers conferred by this section may also be exercised outside Sri Lanka by a Consular officer of Sri Lanka, in addition to an authorized officer.

(2) A person exercising powers under this section—

- (a) shall not unnecessarily detain or delay a ship;
- (b) may, if he considers it necessary in consequence of an accident, or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(3) Where an authorized officer has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship registered or licensed in Sri Lanka which, if provided on such ship would not be in accordance with any regulations made under section 127, he may enter such premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with such regulations.

(4) Any person who—

- (a) obstructs an authorized officer in the exercise of his powers under this section;
- (b) fails without reasonable cause to comply with any requirements made under subsection (2); or
- (c) refuses or fails to give an authorized officer reasonable facilities for the exercise of his powers under this section,

310. (1) For the purpose of seeing that the provisions of this Act and any subsidiary legislation made thereunder are

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

Inspections.

Power of arrest.

311. (1) Any Shipping Officer, officer of customs. Surveyor or police officer may arrest without warrant any person offending in his view against any provision of this Act or any subsidiary legislation made thereunder and take him before a court, to be dealt with according to law.

(2) Any article in respect of which, any offence referred to in subsection (1) is believed to have been committed may be seized and taken to a police station, unless sooner given up by order of a court, until the charge relating to such offence is disposed of in due course of law.

Returns by Surveyors.

312. (1) Surveyors shall, in relation to ships surveyed by them, make such returns to the Chief Surveyor of Ships as the latter requires with respect to—

- (a) the build, dimensions, draught, burden, rate of sailing and room for fuel of such ships;
- (b) the nature and particulars of machinery and the equipment of such ships; and
- (c) such other details of such ships as may be prescribed by the Minister.

(2) Every owner, master and engineer of any ship surveyed by a Surveyor shall, on demand, give to the Surveyor such information and assistance within his power as the Surveyor may require for the purpose of making any return under subsection (1).

(3) Any owner, master, or engineer of a ship who, after demand by a Surveyor, fails without reasonable cause to give information or assistance pursuant to subsection (2) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred rupees.

CHAPTER 2: INSPECTORS

Appointment of inspectors.

313. The Minister may, as and when he thinks fit, appoint any person as an inspector to report to him—

- (a) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is

alleged to have sustained or caused ;
or

- (b) whether the provisions of this Act or any subsidiary legislation made thereunder have been complied with; or
- (c) whether the hull and machinery of any ship are sufficient and in good condition.

314. An inspector, or any person having the powers of an inspector, may—

Powers of inspectors.

- (a) go on board any ship, Sri Lanka or foreign, and inspect such ship or any part thereof, or any of the machinery, boats, equipment or articles on board thereof to which the provisions of this Act or any subsidiary legislation made thereunder apply, not unnecessarily detaining or delaying such ship from sailing on any voyage ;
- (b) enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ;
- (c) by summons under his hand require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report;
- (d) require answers or returns to any inquiries which he thinks fit to make;
- (e) require and enforce the production of all books, papers and documents which he considers important for the purpose of his report,
- (f) administer oaths or, in lieu of requiring or administering an oath, require a person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

315. (1) Every witness summoned under paragraph (c) of section 314 shall be allowed such expenses as would be allowed to a

witnesses.

witness attending on subpoena to give evidence before the High Court,

(2) In case of any dispute as to the amount of the expenses of any witness referred to in subsection (1), such dispute shall be referred to the Registrar of the High Court who shall, on a request for that purpose made to him under the hand of the inspector or person having the powers of an inspector, ascertain and certify the proper amount of those expenses.

(3) Any person who—

(a) refuses to attend as a witness before an inspector or a person having the powers of an inspector, after having been required to do so in the manner provided by section 314 and having had a tender made to him to the expenses (if any) to which he is entitled under this section; or

(b) refuses or neglects to make any answer, or to give any return or to produce any document in his possession, or to make or subscribe any declaration which an inspector or person having the powers of an inspector is empowered to give under section 314,

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding two hundred rupees.

CHAPTER 3: DOCUMENTS AND FORMS

317. (1) Subject to any special provisions of this Act, the Director may prepare and sanction forms for any book, instrument or paper required under this Act, other than under Part II, and may from time to time make such alterations in those forms as he thinks fit.

Power of Director to prescribe forms.

(2) The Director shall cause every such form to be sealed with his seal or marked with some other distinguishing mark, and before finally issuing any form or making any alteration in a form shall cause public notice thereof to be given in such manner as he thinks requisite to prevent inconvenience.

(3) The Director may cause all such forms to be supplied to all customs houses and shipping offices in Sri Lanka, either free of charge or at such moderate prices as he may fix.

(4) Every such book, instrument or paper required under this Act shall be made in the form (if any) approved by the Director, or as near thereto as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceedings on the part of the owner or master of any ship.

(5) Every such book, instrument or paper, if made in a form purporting to be the proper form and to be sealed in accordance with this section, shall be deemed to be in the form required by this Act, unless the contrary is proved.

318. The following instruments shall be exempt from stamp duty :—

Exemption from stamp duty.

(a) any instrument used by or under the direction of the Director in carrying into effect the provisions of this Act;

(b) any instruments which are by any provisions of this Act or any regulations made thereunder required to be in a form approved by the Director, if made in that form.

319. If any person—

(a) when a form approved by the Director is, under this Act, required

Offences in respect of use of forms.

Obstruction of inspector.

316. (1) Any person who wilfully impedes an inspector or person having the powers of an inspector in the execution of his duty under this Act, whether on board a ship or elsewhere,—

(a) may be seized or detained by such inspector or person, or by any other person or persons whom that inspector or person may call to his assistance, until he can conveniently be taken before a Magistrate;

(b) shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five hundred rupees.

to be used without reasonable cause uses a form, not purporting to be a form so approved ; or

- (b) prints, sells or uses any document purporting to be a form approved by the Director under this Act, knowing the same not to be the form approved for the time being, or not to have been prepared or issued by the Director,

that person shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding one hundred rupees.

CHAPTER 4: GENERAL

Power to apply Act to ships of other countries, and to exempt such ships.,

320. (1) Where the Minister is satisfied that any provisions of the law of any Commonwealth country (other than Sri Lanka) or of any other foreign country, which apply with respect to ships registered in or belonging to that country while they are at any port in Sri Lanka are substantially the same as, or equally effective as any of the provisions of this Act or any subsidiary legislation made thereunder, he may by order direct that all or any of such provisions shall not apply with respect to ships registered in or belonging to that country while they are at any port in Sri Lanka, if it is proved that those ships comply with the corresponding provisions of the law of the country in which they are registered or to which they belong;

Provided, however, that no such order shall be made unless the Minister is satisfied that the Government of the Commonwealth or foreign country concerned (as the case may be) has provided or undertaken to provide for the exemption of Sri Lanka ships while they are at any port in that country, from the corresponding provisions of the law of that country.

(2) Where the Minister is satisfied that the Government of any Commonwealth country (other than Sri Lanka) or of any other foreign country desires that any of the provisions of this Act or any subsidiary legislation made thereunder which do not apply to ships registered in or belonging to that country, or to any class or description

of those ships, should so apply either generally or in specified circumstances, and no special provision for that application is made elsewhere in this Act, he may by order declare that such provisions of this Act or any subsidiary legislation made thereunder shall (subject to any limitation prescribed in such order) apply to ships registered in or belonging to that country or, as the case may be, to any class or description of such ships and to the owners, masters and crews and other persons in the service of such ships when not locally in the jurisdiction of such country, in the same manner as if those ships were Sri Lanka ships.

(3) Any order made under subsection (1) or (2) shall, subject to any limitation therein, have effect according to its tenor.

321. (1) Without prejudice to any other power to make regulations conferred upon him by this Act, the Minister may make regulations generally for carrying this Act into effect, and may by such regulations provide for—

General power to make regulations.

- (a) anything which is to be or may be prescribed under this Act;
- (b) the fees to be charged for any services rendered or acts performed under this Act;
- (c) the offences which and the officers by whom offences under this Act may be compounded ;
- (d) the admissibility in evidence and the exemption from stamp duty of documents and forms used under this Act;
- (e) the control of ships within Sri Lanka waters, to the extent that no other provision has been made therefor by this Act or any other written law;
- (f) the definition of home-trade and foreign trade limits, the classification of ships authorized to ply within such limits (whether in relation to their manning standards, general seaworthiness or otherwise), the regulation of traffic within any

such limits, and the modification of any provisions of this Act in relation to any such ships ;

- (g) requiring the complement of a Sri Lanka ship, or of any ship trading in Sri Lanka waters, and subject to such conditions as may be prescribed, to consist of citizens of Sri Lanka, in such proportion or percentage as may be so prescribed ;
- (h) prescribing the hours for the transaction of business by owners, masters and agents of ships at shipping offices at any port or ports within Sri Lanka;
- (i) the enforcement of any international convention relating to the subject-matter of this Act and generally to all maritime matters;
- (j) the implementation in whole or in part of any international convention relating to merchant shipping, or any matter incidental thereto or connected therewith; and
- (k) extending to aircraft, with such modifications as may be prescribed, the provisions of this Act relating to salvage and wreck. .

(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 such disapproval, but without prejudice to anything previously done thereunder.

Indemnity to Government.

322. The Government shall not be responsible for any act or default of any person appointed under, or for the purposes of, this Act, except to such extent as may be provided by this Act.

323. Without prejudice to any other powers conferred on him by the provisions of this Act or by any subsidiary legislation made thereunder, the Minister may, subject to such conditions (if any) as he thinks fit to impose, by order—

- (a) modify the provisions of this Act in their application to such ship or class or description of ship as may be specified in such order in such manner and to such extent as the Minister may by such order prescribe;
- (b) exempt such ship or class or description of ship as may be specified in such order from any specified requirement contained in or prescribed under this Act, if he is satisfied that the requirement has been substantially complied with or that compliance is unnecessary in the circumstances of the case.

324. (1) In this Act, unless the context otherwise requires—

"cargo " includes livestock ;

" Ceylon Shipping Corporation " means the Ceylon Shipping Corporation established under the Ceylon Shipping Corporation Act;

" Chief Registrar" means the Chief Registrar of Sri Lanka Ships;

" Chief Surveyor" means the Chief Surveyor of Ships for Sri Lanka appointed for the purposes of this Act;

" Consular officer ", when used in relation to any country other than Sri Lanka, includes any diplomatic representative of that country;

"crew ", in relation to a ship, includes seamen and apprentices;

" Director" means the Director of Merchant Shipping or Director of Shipping, appointed for the

- purposes of this Act, and includes any deputy or assistant of, or person lawfully acting under the instructions or on behalf of, the Director;
- "distressed seaman" means a seaman engaged under this Act who, by reason of having been discharged or left behind from, or shipwrecked in, any ship at any port or place outside Sri Lanka, is in distress there;
- "fishing boat" means a ship, of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing for profit;
- "foreign ship" means a ship which is not a Sri Lanka ship;
- "Government-Sponsored Shipping Company or Corporation" means any Company or Corporation in which the shares are wholly or partly owned by the Government;
- "go to sea" includes getting under way for the purpose of going to sea;
- "High Court" or "a Judge of the High Court" means a Judge of the High Court of the Republic of Sri Lanka exercising admiralty jurisdiction;
- "master" includes every person (except a pilot or harbour master) having for the time being command, control or charge of a ship, or lawfully acting as the master thereof;
- "Master Attendant" * means a Master Attendant within the meaning of the Masters Attendant Ordinance, and includes any person lawfully acting for a Master Attendant;
- "officer" includes a master, mate or engineer;
- "officer of customs" has the same meaning as in the Customs Ordinance;
- "offence under this Act" includes an offence against any subsidiary legislation made under this Act;
- "owner", in relation to a ship, includes a charterer and an agent or agents of the owner or charterer;
- "Part", in relation to this Act, means the Part of this Act in which that term occurs;
- "police officer" means a member of an established Police Force, and includes the Inspector-General and any Deputy Inspector-General, Superintendent, Assistant Superintendent, Inspector, Sub-Inspector, Sergeant or Constable;
- "port" means a port or place declared or deemed to be a port under section 111 of the Customs Ordinance;
- "proper return port", in relation to a master, seaman or apprentice discharged or left behind, means the port at which the master, seaman or apprentice was engaged or the port agreed to as such by the master, seaman or apprentice, as the case may be;
- "Registrar" means a Registrar of Sri Lanka Ships, and includes the Chief Registrar;
- "Registrar of the High Court" includes any person acting as Registrar of the High Court and any Deputy Registrar of the High Court;
- "sea-going ship" means a ship that in fact goes to sea;
- "seaman" includes every person (except an officer or a pilot or a person temporarily employed on a ship while in port) employed or engaged in any capacity on board any ship;
- "ship" means every description of ship or vessel or boat, or any other description of vessel used in navigation and not exclusively propelled by oars, paddles or poles, and includes all equipment, apparel

* In "specified ports" the functions of the Master Attendant are performed by the Sri Lanka Ports Authority. See sections 2 and 86 (3) of the Sri Lanka Ports Authority Act read with the Masters Attendant Ordinance.

and appurtenances (excluding supplies for sustenance) which are necessary for the navigation and conduct of the business of the ship ;

" Shipping Officer " includes any Deputy or Assistant Shipping Officer, and any person lawfully acting for any Shipping Officer, Deputy or Assistant Shipping Officer;

" Sri Lanka " includes Sri Lanka waters;

" Sri Lanka Consular officer" includes any diplomatic representative of the Republic of Sri Lanka ;

" Sri Lanka Ship " means a ship which is owned wholly by the persons or bodies referred to in section 30;

" Sri Lanka waters " means the territorial waters* of Sri Lanka ;

" subsidiary legislation " means regulations or rules made under this Act;

" Surveyor" means a Ship Surveyor appointed for the purposes of this Act, and includes an Engineer and Ship Surveyor, or a Nautical Surveyor, or a Radio Surveyor, so appointed;

"tidal water" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides;

" voyage ", in relation to a ship, means the whole distance between the ship's port or place of departure and her final port or place of arrival.

(2) Any reference in this Act

(a) to failure to do any act or thing shall be deemed to include a reference to a refusal to do that act or thing;

(b) to the requirements of or to any matter prescribed by this Act shall be deemed to include a reference to the requirements of or to do any matter prescribed by any subsidiary legislation made under this Act.

PART XII—REPEAL AND TRANSITIONAL

325. (1) The written laws specified in Repeal. Column I of the Schedule are, subject to the provisions of this Part, hereby repealed to the extent specified in Column II of that Schedule, and replaced by the provisions of this Act.

(2) Any instrument which was issued, served or granted under any law which is repealed or ceases to have effect by virtue of this Act shall (without prejudice to any power to amend such instrument, and subject to such modifications as may be necessary to bring it into conformity with this Act) continue in force until superseded, revoked or otherwise terminated, and shall be deemed to have been issued, served or granted under this Act, and this Act and any subsidiary legislation made hereunder shall apply to or in relation to such instrument accordingly:

Provided that no such instrument which is expressed to continue in force for a definite period shall continue in force after the expiration of that period unless it is renewed or extended in accordance with this Act and any subsidiary legislation made or continued in force hereunder.

(3) In this section " instrument" means any licence, certificate, validation, exemption, notice or other authority, or any instruction or other requirement, as the circumstances may require.

(4) Reference in any written law to the Merchant Shipping Acts of the United Kingdom shall, unless the context otherwise requires, be construed as a reference to this Act.

326. Any ship registered in relation to Ceylon under Part 1 of the Merchant Shipping Act, 1894, of the United Kingdom immediately before the commencement of Part III of this Act shall be deemed to be duly registered under this Act and the Chief Registrar may, on application, issue a certificate of registry for such ship free of charge, and free of, payment of any initial registration fee.

Transitional provisions relating to registered ships,

* See also sections 2 and 11 of the Maritime Zones Law.

Provisions relating to tonnage measurement.

327. Until other provision therefor is made by regulations made under section 44, the tonnage of every ship to be registered under Part III shall, prior to such ship being registered, be ascertained by a Surveyor in accordance with the law in force at the time of such ascertainment for the measurement of the tonnage of merchant shipping of such maritime nation as the Chief Surveyor may direct.

Provisions relating to ships' names, &c.

328. Until other provision therefor is made by regulations made under section 44, the regulations made under section 50 of the Merchant Shipping Act, 1906 by the Board of Trade of the United Kingdom in conjunction with the Commissioners of Customs on 28th August, 1907 (relating to the registration of ships) shall remain in force, subject to such modifications as may be necessary to bring them into accord with the provisions of this Act.

Provisions relating to forms of bills of sale, &c.

329. Until other provision therefor is made by regulations made under section 44, the forms of bill of sale, mortgage and transfer of mortgage of a ship shall be in the forms marked respectively A, B and C in the first part of the First Schedule to the Merchant Shipping Act, 1894 of the United Kingdom, or as near thereto as circumstances may admit; and for such purpose, for any reference therein to a British ship there shall be substituted a reference to a Sri Lanka ship.

Application of safety and load line regulations.

330. Until other provision is made therefor by regulations made under this Act,—

- (a) the regulations annexed to the International Convention for the Safety of Life at Sea signed at London on 17th June, 1960 shall have effect as regulations made under section 139, and shall take effect with such modifications as may be necessary to adapt them to the circumstances of Sri Lanka; and any reference therein to the "Administration" shall be construed as a reference to the Director, or to such other person or officer as the Director may for such purposes appoint;

- (b) the following rules and regulations of the United Kingdom, namely, the Merchant Shipping (Load Line) Rules, 1968, the Merchant Shipping (Length of Ship) Regulations, 1968, the Merchant Shipping (Dock Cargo) Regulations, 1968, and the Merchant Shipping (Load Lines) (Exemption) Order, 1968, together with all other subsidiary legislation of an ancillary nature thereto made under the Merchant Shipping (Load Lines) Act, 1967, as amended from time to time, shall have effect as regulations made under Part VI of this Act, and shall have effect subject to such modifications as may be necessary to adapt them to the circumstances of Sri Lanka.

331. For the avoidance of doubts, it is hereby declared that in the event of any conflict between the provisions of this Act and any subsidiary legislation made thereunder and the provisions of the Boats Ordinance and the Masters' Attendant Ordinance and any rules or regulations made under such Ordinances, the provisions of this Act and the subsidiary legislation made or deemed to be made thereunder shall, to the extent of any inconsistency, prevail.

Act to override certain other legislation.

332. The Shipping Casualties Rules, 1899, made under section 13 of the Shipping Inquiries Ordinance, 1899, shall—

Temporary continuance of certain rules.

- (a) in so far as such rules are not inconsistent with the provisions of this Act, be deemed to be rules made under section 280;
- (b) continue in force until other provision is made therefor under such section ;
- (c) be construed as if for references therein to the Principal Collector of Customs there were substituted references to the Director.

333. The Minister may make regulations to provide for—

Regulations for resolving transitional difficulties.

- (a) resolving any difficulties that may arise out of the repeal by this Act of any written law;

- (b) the amendment or revocation of any subsidiary legislation, or any part thereof, made under any law repealed by this Act and remaining in force pursuant to this Part;
- (c) the continuance in force, subject to such conditions as may be prescribed, of any exemptions (whether or not based upon

- reciprocity with any other territory) from the operation of any written law repealed by this Act;
- (d) generally effecting a due and orderly assimilation of the law relating to merchant shipping throughout Sri Lanka in conformity with the purposes of this Act.

SCHEDULE

(Section 325)

LAWS REPEALED BY THIS ACT

A. *Legislation of Ceylon*

I

Written Laws

II

Extent of Repeal

Merchant Shipping Ordinance, 1863

The whole

Shipping Inquiries Ordinance, 1899

Wrecks and Salvage Ordinance, 1861

Coastwise Passenger Traffic Ordinance, 1886

Passenger Ships Ordinance, 1906

Merchant Shipping (War Service) Ordinance (Chapter 368 of the 1956 Revised Edition)

Colonial Seamen Repatriation Ordinance (Chapter 373 of the 1956 Revised Edition)

Merchant Shipping Act (Chapter 367 of the 1956 Revised Edition)

B. *United Kingdom Legislation*

57 and 58 Vict. c. 60

Merchant Shipping Act, 1894

6 Edw. 7. c. 48

Merchant Shipping Act, 1906

7 Edw. 7. c. 52

Merchant Shipping Act, 1907

22 Geo. 5. c. 9

Merchant Shipping (Safety and

Load Line Conventions) Act, 1932.

Insofar as such Acts are in force in Sri Lanka/or Ceylon.

CHAPTER 509

MORATUWA SOCIAL SERVICE SOCIETY

Ordinance No. 33 of 1942. AN ORDINANCE TO INCORPORATE THE SOCIETY KNOWN AS THE MORATUWA SOCIAL SERVICE SOCIETY.

[14th September, 1942.]

Short title. 1. This Ordinance may be cited as the Moratuwa Social Service Society Ordinance.

(b) the powers, conduct, duties and functions of the various officers, agents and servants of the society;

Incorporation. 2. From and after the date of the commencement of this Ordinance, the members for the time being of the Moratuwa Social Service Society (hereinafter referred to as the "society") and such and so many persons as shall after that date be members of the society shall be and become a body corporate (hereinafter referred to as the "corporation") with perpetual succession under the name and style of "The Moratuwa Social Service Society" and by that name may sue and be sued in all courts.

(c) the procedure to be observed at meetings and in convening meetings and in the transaction of the business of the society;

(d) the administration and management of the property of the society;

(e) fixing the subscription payable by members and the collection of such subscription;

(f) the imposition of penalties and forfeitures for breaches of the rules ; and

General objects. 3. The general objects for which the society is constituted are the rendering of social service and the promotion of the social service work in the town of Moratuwa by the provision of facilities for the relief of poverty, distress, sickness, unemployment and illiteracy and by the establishment and maintenance of homes for the aged and destitute and schools and by such other measures as may be necessary for the purposes of the society.

(g) generally the management of the affairs and the accomplishment of the objects of the society.

(2) All members of the society shall at all times be subject to the rules for the time being of the society.

Rules. 4. (1) It shall be lawful for the society from time to time at any general meeting of the members and by the votes of at least two-thirds of the members present at such meeting to make rules for any of the following purposes:—

5. No rule made by the society at a general meeting shall be altered, amended or revoked except by the votes of at least two-thirds of the members present at any subsequent general meeting, provided that no such rule or regulation shall however be made to convert the property of the Home for the Aged or moneys earmarked for the said Home for any other purpose. Alteration of rules-

(a) the admission, withdrawal or expulsion of members;

6. The corporation shall be able and capable in law to receive and to hold Power of corporation to hold property.

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.

7. From and after the date of the commencement of this Ordinance all property of the society, both movable and immovable, whether held in the name of the society or in the name of any person or persons in trust for the society, shall be and is hereby vested in the corporation, and such property together with all after-acquired property, both movable and immovable, and all subscriptions, donations, loans and other moneys received or to be received shall be held by the said

Vesting of property.

corporation for the purposes of this Ordinance and subject to the rules for the time being of the society.

8. (1) 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 three members of the society, duly authorized for the purpose under the rules 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.

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 438

METHODIST TRUST ASSOCIATION

Ordinance AN ORDINANCE TO INCORPORATE A METHODIST TRUST ASSOCIATION OF CEYLON.
 No. 54 of 1935,
Act
 No. 17 of 1966.

[18th December, 1935.]

Preamble. Whereas it is proposed and thought expedient to incorporate a Methodist Trust Association of Ceylon with perpetual succession and a common seal and with full power to acquire, purchase, take, hold, enjoy, or lease movable and immovable property on behalf of the people called Methodists in Ceylon in connexion established by the late Reverend John Wesley of England, Master of Arts, and to do and perform all such acts in respect of and concerning and affecting such property as a private individual would do and perform if he held the same in trust for the said society or church, and to sell or otherwise dispose of the same where necessary:

Association of Ceylon appointed by the Conference of the Methodist Church, Ceylon, in the manner hereinafter set out;

(c) "the Conference" shall mean the annual Conference composed of Ministers and lay representatives held at present in Ceylon in accordance with the law, constitution and custom of the said church;

(d) "the President" shall mean the President of the Conference appointed in accordance with the law, constitution and custom of the said church;

(e) "the three District Synods" shall mean the Northern, Central and Southern District Synods composed of Ministers and lay representatives and held in accordance with the law, constitution and custom of the said church;

(f) "the Standing Committee" shall mean the Committee appointed by the Conference to act for the Conference between two sessions of the annual Conference.

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

Short title. 1. This Ordinance may be cited as the Methodist Trust Association of Ceylon Ordinance.

Interpretation. 2. Unless anything shall appear in the context or subject repugnant thereto or inconsistent therewith, the expression—

(a) "the said church" shall mean the church or Christian society in Ceylon called the Methodist Church, Ceylon, composed of Christians in the connexion established by the late Reverend John Wesley A.M. of England and shall include all members thereof at present in the Island of Ceylon;

(b) "the said association" shall mean the members of the Methodist Trust

3. The Reverend Edwin Middleton Incorporation. Weaver, The Reverend Arthur Stanley Beaty, The Reverend Nathaniel Kathirithamby Nalliah, The Reverend George Alfred Fernando Senaratna, The Reverend Samuel George Mendis, Mr. Wesley Duraiappa Niles, Dr. Henry Isaac Femando, Mr. Bertie Ebenezer de Pinto, Mr. Llewellyn Solomon Fernando, and Mudaliyar George Washington Rasiah

Vallipuram are hereby incorporated under the name of "The Methodist Trust Association of Ceylon " and they and their successors to be appointed in the manner hereinafter to be provided shall for ever hereafter be associated together as the Methodist Trust Association of Ceylon with perpetual succession and a common seal and shall have full power and authority to hold, acquire, purchase, accept, take, take on lease and enjoy movable and immovable property of every description and to sell, mortgage, alienate, lease, or otherwise dispose of or deal with the same and by that name to sue and be sued in all Courts of Justice and to do, perform and exercise all acts which a private individual may, can, or shall, do, perform or exercise in the pursuance of his right as an owner or lessee or holder of such property and shall be empowered to lend its name and act as a trustee in respect of any endowment or funds of the said church and to borrow money where the necessity arises with or without the security of its own property.

mentally incapable of acting as members of the said association in which case the Standing Committee shall have the power and they are hereby empowered to elect members to fill the vacancies which have occurred; and the appointment of any such member to fill any such vacancy shall continue in force from the day of his appointment till the date of the next Conference. [§6,17 of 1966-]

4. The said Methodist Trust Association shall be composed of the President of the Conference, the Secretary of the Conference, the Chairmen of the three District Synods and five laymen, all of whom shall be appointed annually by the Conference and shall hold office until the next annual Conference after such appointment.

8. The said Methodist Trust Association shall be responsible to the Conference of the Methodist Church, Ceylon; but this provision shall not be deemed to interfere with the provisions of any particular trust under which any property movable or immovable shall be held by the said trust association or curtail the powers or authority of the trust association thereunder or under section 3. Association to be responsible to the Conference. [§ 7, 17 of 1966.]

In the interval between any two sessions of the Conference, the President in consultation with the standing committee is hereby empowered to act for and in the name of the Conference in giving orders and directions to the trust association. [§ 7, 17 of 1966.]

9. The Methodist Trust Association of Ceylon shall have power to hold, possess, and use property both movable and immovable and whether in possession, expectancy, remainder, reversion or otherwise and to allow itself to be nominated and appointed and to act as trustees for any fund, endowment, bequest, legacy, or trust for the use of the said church. Power to hold property

5. The Conference shall at each annual session, or as soon thereafter as possible, appoint the members of the said association who shall compose the said association from the date of such appointment until the next annual session of the Conference.

10. (1) It shall be lawful for the said association from time to time at any general meeting of the members of the association and by a majority of votes to make rules for the transaction of business and the procedure to be observed at meetings of the association and generally for the management of the affairs and the accomplishment of the objects of the association. Rules.

*7. No act of the said Methodist Trust Association shall be rendered invalid or of no force or avail in law nor shall the said trust association cease to exercise the powers or to discharge the duties devolving on it merely because there is a vacancy created in the said association by reason of the death or absence from Sri Lanka or mental disability of any member thereof unless more than half of the members shall have either died or left Sri Lanka or become

(2) All members of the said association shall at all times be subject to the rules for the time being of the association.

Constitution. [§ 3, 17 of 1966.]

Appointment of members of the association. [§ 4, 17 of 1966.]

Acts of association not invalidated by vacancies in membership.

* Section 6 is repealed by Act No. 17 of 1966.

Cap. 438]

METHODIST TRUST ASSOCIATION

Appointment of secretary, **11.** The said trust association shall, every year or as often as it may be convenient, appoint a secretary who shall have the power to call meetings whenever necessary; and at such meetings the President, if present, shall preside,

[§ 8,17 of 1966.]

Office and seal.

[§ 9,17 of 1966.]

12. The said trust association shall have an office and the common seal of the said association shall be in the custody of the President and shall not be affixed to any instrument or document except in the presence of three at least of the members of

the said trust association who shall sign their names on the instrument or document in token of their presence and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

13. 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 those claiming by, from, or under them. Saving of the rights of the Republic and others.

CHAPTER 529

MOTOR TRAFFIC (SPECIAL PROVISIONS)

Act No. 60 of 1979.

AN ACT TO PROHIBIT THE OPERATION OF MOTOR VEHICLES WITH LIQUID PETROLEUM GAS; TO REQUIRE OWNERS OF MOTOR VEHICLES OPERATED WITH KEROSENE OR WITH A MIXTURE OF KEROSENE AND ANY OTHER PETROLEUM PRODUCT TO REGISTER SUCH VEHICLES; TO IMPOSE A TAX ON SUCH VEHICLES; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[4th October, 1979.]

Short title.

1. This Act may be cited as the Motor Traffic (Special Provisions) Act.

specified in Column I of the Schedule hereto, the tax specified in the corresponding entry in Column II of that Schedule.

Prohibition of the use of liquid petroleum gas.

2. No person shall possess or use any motor vehicle which is operated with liquid petroleum gas.

6. (1) The tax payable under section 5 shall be paid to the appropriate licensing authority on or before December 31, 1979.

Date of payment of tax and penalty for non-payment.

Kerosene operated motor vehicles to be registered.

3. No person shall use kerosene or any mixture of kerosene with any other petroleum product for the purpose of operating any motor vehicle unless such vehicle is registered under the Motor Traffic Act as a vehicle which is operated with kerosene or with a mixture of kerosene and any other petroleum product.

(2) Every person who fails to pay the tax on or before the date specified in subsection (1) shall be guilty of an offence under this Act and shall on conviction before a Magistrate be liable to a fine not exceeding three thousand rupees, notwithstanding that such fine is in excess of the ordinary jurisdiction of such Magistrate.

Owner to apply for registration.

4. (1) Every owner of a motor vehicle referred to in section 3 shall, before the expiry of a period of thirty days from the date of coming into operation of this Act, apply to the Registrar for registration of such vehicle as a vehicle operated with kerosene or with a mixture of kerosene and any other petroleum product.

(3) Where the amount of the tax referred to in subsection (1) has not been paid to the appropriate licensing authority before the expiry of a period of three months from the date specified in subsection (1), the licensing authority shall issue a certificate containing particulars of such tax and the name and last known place of residence of the person who has failed to pay such tax, to a Magistrate having jurisdiction in the division in which such place is situated. The Magistrate shall order the tax to be recovered as though it were a fine imposed by a sentence of the Magistrate on such person.

(2) Where a person fails to comply with the provisions of subsection (1) he shall be guilty of an offence and shall, on conviction before a Magistrate, be liable to a fine of one thousand rupees.

Imposition of a tax on certain motor vehicles.

5. Notwithstanding any of the provisions of the Motor Traffic Act, there shall be payable to the appropriate licensing authority, for the period commencing on July 01, 1979, and ending on December 31, 1979, in respect of the motor vehicles

7. Where any police officer has a reasonable suspicion that a motor vehicle is being used by any person in contravention of the provisions of this Act, it shall be lawful for such police officer to stop and detain such vehicle until the examination of such vehicle is completed by an examiner.

Powers of police officer.

MOTOR TRAFFIC (SPECIAL PROVISIONS) [Cap. 529]

Penalty for contravention of sections 2 and 3.

8. Any person who contravenes the provisions of section 2 or section 3 shall be guilty of an offence and shall, on conviction by a Magistrate, be liable to a fine not less than five thousand rupees, notwithstanding that such fine is in excess of the ordinary jurisdiction of such Magistrate.

Certificate of examination to be admissible in evidence.

9. Where, in any proceedings under this Act, any question arises as to whether kerosene or any mixture of kerosene with any other petroleum product has been used for the purpose of operating any motor vehicle, the certificate of any examiner to the effect that he has examined the vehicle and stating the result of his examination, shall be admissible in evidence and shall be sufficient prima facie evidence of any fact or opinion stated therein relating to the matter in question, and the court shall not permit the examiner to be called for cross-examination on the certificate unless contrary evidence is given which appears to the court to be credible, or unless for any reason the court considers such cross-examination to be necessary in the interests of justice.

10. Notwithstanding the preceding provisions of this Act, where the Minister in charge of the subject of Scientific Affairs is satisfied that any person assigned by him to conduct research into the use of liquid petroleum gas, kerosene or any other petroleum product in motor vehicles is conducting such research, he may, with the concurrence of the Minister, authorize in writing, subject to such conditions and restrictions as may be specified therein, such person to use liquid petroleum gas, kerosene or, any other petroleum product in motor vehicles in-furtherance of such research.

Use of liquid petroleum gas, kerosene or any other petroleum product permitted in certain circumstances.

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

Interpretation.

" examiner ", " licensing authority ", " lorr-y ", " motor car ", " motor vehicle ", " Registrar " and " trailer", shall have the same meanings, respectively, as in the Motor Traffic Act; and

"petroleum product " means petrol, auto-diesel, heavy diesel, furnace oil and aviation turbine fuel.

[Section 5.]

SCHEDULE

COLUMN I	COLUMN II
<i>Class or category of vehicle</i>	<i>Tax</i>
	<i>Rs. c.</i>
Motor vehicles operated with kerosene or with a mixture of kerosene and any other petroleum product—	
(a) where such vehicle is a motor car, the tare of which does not exceed 20 cwts. (1,016 kilograms)	.. 600 0
(b) where such vehicle is a motor car, the tare of which is 20 cwts. or exceeds 20 cwts. (1,016 kilograms)	.. 1,200 0
(c) where such motor vehicle is a lorry (other than a trailer), the tare of which does not exceed 100 cwts. (5,080 kilograms)	.. 1,200 0
(d) where such motor vehicle is a lorry (other than a trailer), the tare of which is 100 cwts. or exceeds 100 cwts. (5,080 kilograms)	.. 2,400 0

CHAPTER 492

MAHAMANTINDA VIDYARAKSHAKA SABHA

Act No. 20 of 1956. AN ACT TO INCORPORATE THE MAHAMANTINDA VIDYARAKSHAKA SABHA OF MATARA.

[17th February. 1956.]

Preamble. Whereas a society called and known as the Mahamantinda Vidyarakhshaka Sabha has heretofore been established at Weliveriya in Matara for the purpose of maintaining and managing the educational institution called and known as the Mahamantinda Pirivena and the other institutions connected therewith and founded, held, or presided over, by the late Venerable Bedigama Sri Ratnapala Nayaka Thero and the late Venerable Babarende Sri Dharmawasa Nayaka Thero :

situated at Weliveriya in Matara (hereinafter referred to as "the pirivena ") and the other institutions connected therewith and founded, held, or presided over, by the late Venerable Bedigama Sri Ratnapala Nayaka Thero and the late Venerable Babarende Sri Dharmawasa Nayaka Thero;

And whereas the said society has heretofore been successfully carrying out its objects and it is now desirable that the said society should be incorporated :

(b) the management and maintenance of any other schools or institutions which may hereafter be established ;

(c) the establishment, management and maintenance of centres for scientific and religious research;

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows :—

(d) the propagation of the Buddha *dhamma* and the promotion of Buddhist culture; and

(e) the printing and publishing of books, journals, newspapers, and pamphlets.

Short title. 1. This Act may be cited as the Mahamantinda Vidyarakhshaka Sabha Act.

Incorporation of the Mahamantinda Vidyarakhshaka Sabha. 2. The persons who, at the commencement of this Act, are members of the Mahamantinda Vidyarakhshaka Sabha (hereinafter referred to as " the sabha ") and such other persons as are hereafter enrolled as members of the sabha shall be a body corporate (hereinafter referred to as " the corporation ") with perpetual succession, a common seal and the name "The Mahamantinda Vidyarakhshaka Sabha ". The corporation may sue and be sued by that name.

4. (1) The corporation shall have a council which shall consist of— The council of the corporation.

(o) twenty life-members, and

(b) eighty ordinary members elected annually in accordance with the rules for the time being of the corporation.

Objects of the corporation. 3. The general objects of the corporation shall be—

(2) The council shall, in accordance with the provisions of subsection (1) of section 5, elect at its first meeting for each year, which shall be held on a date not less than fourteen days before the date of the annual general meeting of the corporation, the persons who shall constitute the board of management of the corporation for that year.

(a) the management and maintenance of the Mahamantinda Pirivena

(3) The following shall be life-members of the council:—

1. N. W. Samarasekera, Esq., Main Street, Matara.
2. D. Wanigasekara, Esq., M.B.E., Akuressa.
3. C. A. Ariyatilaka, Esq., J.P., Matara.
4. C. Wijesinghe, Esq., O.B.E., Kamburupitiya.
5. Muhandiram A. D. S. Weerasinghe, Gabadaweediya, Matara.
6. A. Weeratunga, Esq., Walgama, Matara.
7. D. S. Gunawardhana, Esq., Matara.
8. D. Weeratunga, Esq., Proctor, S. C., Matara.
9. H. M. D. Ekanaika, Esq., Matara.
10. D. J. Kumarage, Esq., M.B.E., Matara.
11. D. E. Siriwardhana, Esq., Kotawila.
12. B. E. Samarasekera, Esq., Matara.
13. D. M. Wanigasekera, Esq., Wewahamanduwa, Matara.
14. Dr. K. E. Karunaratna, Matara.
15. T. C. D. Abeyagunawardhana, Esq., Fort, Matara.
16. M. J. Nanayakkara, Esq., Matara.
17. Kumaradasa Karunanayaka, Esq., Matara.
18. C. A. Chandrasena, Esq., Kadeweediya, Matara.
19. C. Justin Wijewardhana, Esq., Godagama, Matara.
20. D. S. A. Wickramasinghe, Esq., Uyanwatta, Matara.

(4) Wherever a vacancy occurs among the life-members of the council, the board of management of the corporation shall elect a person to fill the vacancy.

(5) The following ordinary members of the council shall, unless they cease to hold office earlier, hold office as such members from the date of commencement of this Act until the election of the ordinary members of the council for the next succeeding year and shall be eligible for re-election as ordinary members of the council:—

1. H. W. Amarasuriya, Esq., Galle.

2. D. P. Atapattu, Esq., Proctor, S. C., Tangalla.
3. D. D. Abhayagunaratna, Esq., Malimbada.
4. D. C. Abeywickrama, Esq., Kongala, Hakmana.
5. Muhandiram P. F. Abeywickrama, Morawaka.
6. Muhandiram H. R. Amaradasa, Dikwella.
7. D. F. Abeywardhana, Esq., Main Street, Matara.
8. D. D. D. Abeygunawardhana, Esq., Kanattogoda, Matara.
9. D. T. A. Amarakoon, Esq., Notary Public, Matara.
10. D. S. Amaratunga, Esq., Walgama, Matara.
11. D. A. N. Bamunusinghe, Esq., Walasgala.
12. D. Sepala Dahanayaka, Esq., Godapitiya, Akuressa.
13. D. D. Dahanayaka, Esq., Hittatiya, Matara.
14. J. D. Davith Appuhamy, Esq., Meddewatta, Matara.
15. H. R. Dissanayaka, Esq., Hakuruwela, Weeraketiya.
16. Arthur Dissanayake, Esq., Hunnadeniya, Dikwella.
17. B. R. Dissanayaka, Esq., "Senanee", Magalle, Galle.
18. D. H. W. W. Dissanayake, Esq., Pitadeniya, Dikwella.
19. C. A. Dharmapala, Esq., M. P., Matara.
20. H. P. D. C. Dharmadasa, Esq., Gabadaweediya, Matara.
21. D. A. Francisco, Esq., Matara.
22. D. H. Galagama, Esq., Mandaduwa, Weeraketiya.
23. Albert P. W. Gunasekera, Esq.,
24. Muhandiram A. W. Gunasekera, Malimbada.
25. Hemachandara W. Gunasekera, Esq., Proctor, S. C., Weligama.
26. B. S. Gunasekera, Esq., Wattala.
27. David Gunaratna, Esq., Wehella.
28. M. K. S. de Silva, Esq.
29. Chandrasena Gunawardhana, Esq., Weliwariya.

30. D. A. Gunawardhana, Esq., Godagama.
 31. C. A. Harischandra, Esq., Matara.
 32. S. Hettige Esq., J.P., Mulatiyana.
 33. S. K. G. Jayawardhana, Esq., Fort, Matara.
 34. E. M. W. Jayasooriya, Esq., Proctor, S.C., Matara.
 35. P. L. Jinadasa, Esq., Andaradeniya, Deniyaya.
 36. D. P. Attapattu, Esq., Matara.
 37. D. A. Rajapakse, Esq., Palawella.
 38. Leyiris Kumarapperuma, Esq., Walgama.
 39. Richard Kulatunga, Esq., Proctor, S.C., Matara.
 40. D. S. Y. Kulatunga, Esq., Pallawela.
 41. A. S. Y. Kulatunga, Esq., Kottagoda.
 42. D. F. N. Kuruppu, Esq., Naimbala.
 43. W. U. Liyanage, Esq., Weliveriya.
 44. D. A. Manamperi, Esq., Madiha.
 45. C. M a n a m p e r i , E s q . , Nakulugamuwa.
 46. S. Masakorala, Esq., Matara.
 47. D. G. J. Mahanama, Esq., Matara.
 48. S. Meemaduma, Esq., Matara.
 49. R. D. S. Mohotti, Esq., Hittatiya.
 50. M. E. Nanayakkara, Esq., Proctor, S.C., Matara.
 51. B. R. Wijesekera, Esq., Deniyaya.
 52. V. G. W. Ratnayake, Esq., M.P., Deniyaya.
 53. D. M. Ratnayake, Esq., Akuressa.
 54. D. P. Ranasinghe, Esq., Mulatiyana.
 55. D. J. J. Ranatunga, Esq., Kadawedduwa.
 56. C. J. Ranatunga, Esq., Advocate, Kamburupitiya.
 57. D. A. Rajapaksa, Esq., M.P., Weeraketiya.
 58. D. A. Rajapaksa, Esq., "Lumbini", Rahula Road, Matara.
 59. D. J. Ranaweera, Esq., Yatiyana.
 60. D. D. S. Rupasinghe, Esq., Walpola, Matara.
 61. D. C. Wanigasekera, Esq., Akuressa.
 62. K. D. Wijesekera, Esq., Hakmana.
 63. E. P. Wijetunga, Esq., Proctor, S. C., Matara.
 64. Lionel Wijetunga, Esq., Elgiriya.
 65. D. C. A. Wickramasinghe, Esq., Weliveriya.
 66. J. W. Wickramasinghe, Esq., Proctor, S. C., Matara.
 67. T. S. Wickramaratna, Esq., Kamburupitiya.
 68. George Weeratunga, Esq., Proctor, S. C., Tangalla.
 69. D. S. Weeratunga, Esq., Madiha.
 70. Piyadasa Weeratunga, Esq., Madiha.
 71. K. G. J. Weerasinghe, Esq., Gabadaweediya.
 72. K. G. K. Wedahita, Esq., Walgama.
 73. D. Samarakoon, Esq., Kotte.
 74. Fred Samarakoon, Esq., Matara.
 75. Muhandiram L. D. Sedara, Kamburupitiya.
 76. R. P. Simon, Esq., Matara.
 77. C. A. Edward de Silva, Esq., Wattala.
 78. Henry R. de Silva, Esq., Gabadaweediya, Matara.
 79. W. T. de Silva, Esq., Walpola, Matara.
 80. M. D. Yapa, Esq., J.P., Waralla.
5. (1) Subject to such rules as may be made under section 11, the affairs of the corporation shall be managed by a board of management consisting of fifteen life-members and ten ordinary members of the council.
- (2) The board of management shall elect from its own members the following office-bearers of the corporation:—
- (a) the president,
 - (b) four vice-presidents,
 - (c) an honorary treasurer, and
 - (d) two honorary joint secretaries.
- (3) The office-bearers of the corporation shall, unless they cease to hold office earlier, hold office from the date of their election until the election of the office-bearers for the next succeeding year.
6. (1) The following persons shall be members of the advisory board of the corporation:—
1. Venerable K. Sri Pannasara Nayaka Thero, Principal, Vidyalankara Pirivena.

Board of management, and office-bearers of the corporation.

Advisory board-

2. Rev. W. Sumangala Nayaka Thero, Puranaviharaya, Hatagala.
3. Rev. Sri Saranankara Nayaka Thero, Walasgala.
4. Rev. W. Sri Jinaratana Nayaka Thero, Tenumpota, Dikwella.
5. Rev. K. Sri Sanghananda Nayaka Thero, Pallawela.
6. Rev. P. Dhammaratana Thero, Murutamure, Hakmana.
7. Rev. P. Sri Rewata Nayaka Thero, Weherahena, Makavita.
8. Rev. K. Sri Sumanatissa Nayaka Thero, Kasagala Viharaya, Weeraketiya.
9. Rev. G. Sri Indasara Nayaka Thero, Tissamaharamaya.
10. Rev. G. Dhammadhara Thero, Denagama, Hakmana.
11. The Principal of the Vidyalankara Pirivena, Peliyagoda.

(2) Whenever a vacancy occurs in the advisory board, the board of management shall elect a person to fill the vacancy.

The director and the principal of the pirivena.

7. (1) If there is a suitable and qualified *bhikkhu* who is in the line of pupillary succession to the late Venerable Bedigama Sri Ratnapala Nayaka Thero or the late Venerable Babarende Sri Dharmawasa Nayaka Thero, such *bhikkhu* shall be appointed to the post of principal of the pirivena. In the absence of such a *bhikkhu*, an elderly *bhikkhu* in the line of such pupillary succession shall be appointed director of the pirivena. The director of the pirivena shall appoint, with the approval of the board of management, a qualified and competent *bhikkhu* to the post of principal, and shall be generally responsible for the proper administration of the pirivena.

(2) The *bhikkhus* in the line of such pupillary succession as is referred to in subsection (1) shall have the right to reside in the pirivena, and shall be subject to the disciplinary rules of the pirivena:

Provided, however, that if any such *bhikkhu* behaves in a manner prejudicial to the interests of the pirivena, his conduct shall be examined by a body consisting of not less than five members of the advisory board and of the members of the board of management, and if he is found guilty of having behaved in such manner, he shall be ejected from the pirivena.

8. (1) The annual general meeting of the corporation shall be held in the month of January, and the reports of the board of management and of the honorary treasurer shall be submitted for consideration at such meeting. Meetings.

(2) The honorary secretary shall convene a special general meeting at the request of the president or the board of management or upon the written requisition of not less than twenty-five members of the corporation.

(3) At least ten days' notice shall be given of any general meeting, and twenty-five members shall constitute the quorum for such meeting.

(4) The board of management shall meet at least once in three months.

(5) At least ten days' notice shall be given of any meeting of the board of management, and seven members shall constitute the quorum for such meeting.

9. The corporation may acquire and hold any movable or immovable property by right of purchase, exchange, grant, gift, testamentary disposition or otherwise, and may sell, mortgage, lease, exchange or otherwise dispose of any movable or immovable property of the corporation. Corporation may hold property.

10. The corporation may invest its funds on any securities on which trustees are required by the Trusts Ordinance to invest trust money. Funds of the corporation.

11. It shall be lawful for the corporation, at any meeting specially called for that purpose and by a vote of two-thirds of the members present and voting at such Rules.

meeting, to make such rules not inconsistent with this Act as the corporation may deem expedient for all or any of the following purposes:—

- (a) the limitation of membership and the fixing of the membership fee;
- (b) the election of members;
- (c) the removal of members from the roll;
- (d) the election of office-bearers and an auditor, and the determination of their duties;
- (e) the election of the ordinary members of the council and of the board of management, and the determination of the duties of the members of the board of management;
- (f) the appointment of a director or principal of the corporation, and the determination of the duties and the term of office of such director or principal;

- (g) the procedure to be followed in the transaction of business of the corporation, the board of management and the advisory board;
- (h) the custody of the seal of the corporation; and
- (i) the general administration of the affairs of the corporation.

12. The seal of the corporation shall not be affixed to any instrument whatsoever except in the presence of the president and one other member of the board 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.

13. Nothing in this Act contained shall prejudice or affect the rights of the Republic, or of any body politic or corporate, or of any other persons, except such as are mentioned in this Act and those claiming by, from, or under them.

Saving of the rights of the Republic and others.

CHAPTER 164

MINIMUM WAGES

Ordinances Nos. 27 of 1927, 34 of 1935, 22 of 1945, Act No. 22 of 1955. AN ORDINANCE TO AMEND THE LAW RELATING TO INDIAN LABOURERS.

[9th December, 1927.]

Short title. 1. This Ordinance may be cited as the Minimum Wages (Indian Labour) Ordinance. members, none of whom shall be members of the Board of Indian Immigrant Labour.

Construction. 2. This Ordinance shall be read and construed as one with the Service Contracts Ordinance, the Estate Labour (Indian) Ordinance, and the Indian Immigrant Labour Ordinance. (2) The said board shall be composed of a chairman (who shall be a public officer nominated by the Minister) and four other members, of whom two shall be employers of Indian labourers working on estates, the remaining two being selected to represent the labourers.

Work other than time work. 3. (1) Where a labourer is employed at work other than time-work for a day or a successive number of days within any calendar month, the wages payable to him for that day or successive number of days, shall not be less than the wages payable to such labourer for such period at the minimum rates of wages prescribed under this Ordinance. (3) Such members shall hold office for a period not exceeding three years, and any member leaving Sri Lanka for a period exceeding six months or being absent from three consecutive meetings of an Estate Wages Board shall *ipso facto* cease to be a member. Any member may resign by notice in writing given to the Commissioner of Labour.

(2) In the case of a labourer paid by the day, any period of work performed by such person exceeding nine hours per day (including time not exceeding one hour taken for the midday meal) shall be paid for at overtime rates, and shall be in addition to the minimum rates of wages payable to the labourer for a day's work. Such overtime rates shall not be less per hour than one-eighth of the minimum rates of wages fixed under this Ordinance. (4) Any member ceasing to be a member in the manner aforesaid shall be eligible for reappointment.

Child labour. 4. No employer shall knowingly employ for work on estates any child below the age of ten years, or knowingly permit such child to be employed. (5) Any vacancy created by death or incapacity to act or in the manner indicated in subsection (3) of this section may be filled by the Minister, and such member shall hold office until the expiration of the three years in question.

Appointment of Estate Wages Board. 5. (1) It shall be lawful for the Minister by notification in the Gazette to appoint for any administrative district an Estate Wages Board composed of five (6) At a meeting of the Estate Wages Board three members shall form a quorum and the chairman shall be entitled to vote and in case of equality of votes shall have a second or casting vote.

6. (1) The Minister may, if he thinks it expedient, establish one Estate Wages Board for two or more administrative Extent of jurisdiction of Estate Wages Board.

districts, and thereupon such board shall be the Estate Wages Board for the combined administrative districts, or the Minister may establish an Estate Wages Board for portions of one, two, or more administrative districts, and thereupon such board shall be the Estate Wages Board for the area so combined.

(2) The Minister may from time to time alter the boundaries of the area over which any Estate Wages Board has jurisdiction.

(3) For the purpose of this Ordinance an estate shall be deemed to be subject to the jurisdiction of that Estate Wages Board within whose area the whole of the estate is situated, or within whose area is that part of the estate where the person resident on the estate and in chief control of the labourers working thereon has his estate office or other place of management.

(2) An Estate Wages Board may, if it thinks fit, fix different minimum rates for labourers working in different localities within its jurisdiction, and may fix different rates for different classes of labourers.

(3) An Estate Wages Board may cancel or vary from time to time any minimum rates of wages fixed under this Ordinance.

(4) The chairman of an Estate Wages Board shall inform the chairman of the Board of Indian Immigrant Labour of each decision of the Estate Wages Board fixing, cancelling, or varying a minimum rate of wages, and the Board of Indian Immigrant Labour may confirm, vary, or cancel every such decision.

(5) The chairman of the Board of Indian Immigrant Labour shall by notification in the Gazette and in at least one Sinhala, one Tamil and one English newspaper publish the decision of such Estate Wages Board, and the Board of Indian Immigrant Labour shall not confirm, vary, or cancel such decision until after the expiration of one month from the date of such notification.

Expenses of members.

7. It shall be lawful for the Commissioner to make such payments as may be necessary to the members of the Estate Wages Boards to meet the cost of travelling and maintenance in connexion with meetings of such boards from the Immigration Fund created by the Indian Immigrant Labour Ordinance.

Estate Wages Board to fix minimum rates of wages.

8. (1) Subject to the provisions of this Ordinance, an Estate Wages Board shall, from time to time as occasion may require, fix minimum rates of wages for time-work performed on estates within its jurisdiction:

Provided that the chairman of such Wages Board shall by notification in the Gazette and in at least one Sinhala, one Tamil and one English newspaper give notice of the intention of the Estate Wages Board to fix minimum rates of wages, or where such have been already fixed to alter the same at least one month before the Estate Wages Board proceeds to fix or alter such rates; and

Provided, further, that such Estate Wages Board may, before fixing such minimum rates of wages, hear any interested person and his witnesses who may have given due notice of his intention of being present.

9. (1) The Board of Indian Immigrant Labour may from time to time of its own motion fix any minimum rates of wages or cancel or vary any minimum rates of wages which have already been fixed under this Ordinance whenever any Estate Wages Board, upon being required so to do by the Board of Indian Immigrant Labour, shall fail to fix, vary, or cancel such minimum rates within two months or such further period as may be allowed by the Board of Indian Immigrant Labour.

(2) The Board of Indian Immigrant Labour when acting under this section shall give notice to the public and hear witnesses (if any) as provided in subsection (1) of section 8.

10. (1) A minimum rate of wages or a cancellation or variation thereof shall not take effect until it has been approved by the Minister and published in the Gazette. When so published the minimum rate or the cancellation or variation thereof shall be binding on all employers, and shall take effect from a date (being not less than one

month from the date of publication) to be fixed by the Commissioner and to be published in the Gazette. Such rate or the cancellation or variation thereof shall also be published in at least one Sinhala, one Tamil and one English newspaper.

(2) A notification in the Gazette to the effect that any minimum rate of wages has been fixed, varied, or cancelled with the approval of the Minister under this Ordinance shall be judicially noticed, and shall be conclusive proof of the fact and of the date on which the minimum rate of wages or variation or cancellation thereof takes effect.

(3) After such publication in the Gazette every employer shall exhibit in some conspicuous place on his estate a notice in the Sinhala and Tamil languages on a board setting forth the minimum rate of wages applicable to his estate, so that it may be readily seen and read by the labourers.

Liability to issue monthly allowance of rice

11. (1) On every estate an allowance of one-eighth of a bushel of unblended rice of good quality shall be issued, free of charge, each month by the employer—

- (a) to every Indian male labourer above the age of sixteen years employed on the estate, and
- (b) to every Indian widow resident on the estate and having at least one child below the age of ten years dependent on her.

or to supply free meals.

(2) With the written permission of the Commissioner first had and obtained, any employer may, in lieu of the allowance of rice under subsection (1), supply daily, free of charge, one or more meals of rice and curry or such other article of food as may be approved by the Commissioner, to each of the children below the age of ten years resident on the estate and dependent on any of (he labourers employed or the widows resident thereon.

(3) The permission given by the Commissioner under subsection (2) shall be—

(a) subject to the condition that the meals supplied are at all times -of good quality, and that in the aggregate for any month they are not less in value than the allowance of rice that would otherwise have been issued under subsection (t); and

(b) liable to be withdrawn at any time by written notice under the hand of the Commissioner, if the foregoing condition is not fulfilled to his satisfaction.

(4) Nothing in this section contained shall be deemed to affect the provisions of section 12 of the Medical Wants Ordinance.

12. (1) Any person who employs or pays a labourer to whom a minimum rate of wages fixed under this Ordinance is applicable at a rate of wages less favourable to the labourer than the minimum rate or fails to issue the monthly allowance of rice or in lieu thereof to supply free meals in accordance with section 11, shall on conviction by a Magistrate be liable to a fine not exceeding one hundred rupees for each offence.

Penalty for failure to pay minimum rates.

(2) In any proceedings against an employer under this section the court shall, whether there is a conviction or not, order the employer to pay in addition to the fine, if any, such sum as may be found by the court to represent the difference between the amount which ought at the minimum rate applicable to have been paid to the labourer during the period of six months immediately preceding the date on which the plaint was filed or the summons was served and the amount actually paid to him during that period, or to represent the cost of the allowance of rice which ought to have been issued in accordance with section 11 during that period.

13. (1) For the purpose of administering this Ordinance, the Commissioner shall have power at all reasonable times, with or without notice, to enter upon any premises on which labourers work and to inspect all records connected with the engagement, registration, payment, and discharge of such labourers, [including

Inspection of records.

any forms II in Schedule B to the Estate Labour (Indian) Ordinance], and to make all such inquiries as may be necessary to ascertain the rates at which wages have been paid to such labourers.

(2) It shall be the duty of every employer to have and keep at an office on the estate every form II in Schedule B to the Estate Labour (Indian) Ordinance delivered to him by a labourer and also proper records of the wages paid to labourers, and any employer who fails to do so, or, when requested so to do by the Commissioner, fails to produce any such form or records, not being forms or records over one year old, or to answer any question relating to any such form or records or to the wages paid by the employer, shall on conviction by a Magistrate be liable to a fine not exceeding one hundred rupees.

(3) Any agent appointed under section 8 of the Indian Immigrant Labour Ordinance and any officer authorized by him in writing shall have the same powers of inspection and making inquiries as are conferred on the Commissioner by this section.

Sanction of Commissioner to prosecutions.

14. No prosecution under this Ordinance shall be instituted except by or with the written consent of the Commissioner.

Meaning of "Commissioner" in sections 13 and 14.

15. In each of the two immediately preceding sections "Commissioner" includes any officer of his department of or above the rank of Inspector who is generally or specially authorized in writing by the Commissioner to act for the purposes of such section.

General penalty.

16. If any person contravenes any provision of this Ordinance, then, if no penalty is imposed by this Ordinance, he

shall, on conviction by a Magistrate, be liable for each offence to a fine not exceeding one hundred rupees.

17. Every employer shall exhibit in some conspicuous place on his estate, so that they may be easily seen and read by labourers, copies in Sinhala and Tamil of the Service Contracts Ordinance, the Estate Labour (Indian) Ordinance, the Tundu Prohibition Ordinance, the Indian Immigrant Labour Ordinance, and of this Ordinance, as issued by the Government.

Copies in Sinhala and Tamil of Ordinances to be exhibited on estate.

18. (1) In this Ordinance, unless the context otherwise requires— Interpretation.

"Commissioner" means the Commissioner of Labour;

"employer" includes any person who enters into an agreement either expressly or impliedly with any labourer and the duly authorized agent or manager of such person;

"labourer" means a labourer as defined by section 3 of the Estate Labour (Indian) Ordinance;

"minimum rates of wages" means the rates proper in cash or kind or both for an able-bodied unskilled male labourer above the age of sixteen years, for an able-bodied unskilled female labourer above the age of fifteen years, or for an able-bodied, child of either sex for time-work.

(2) Every labourer shall be deemed to be able-bodied unless and until the Commissioner shall determine that he is not able-bodied.

(3) Should any question arise as to whether a labourer is able-bodied or not, it shall be determined by the Commissioner, and such determination shall be final.

CHAPTER 68

MARRIED WOMEN'S PROPERTY

Ordinance No. 18 of 1923.* AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE PROPERTY OF MARRIED WOMEN.

[1st July. 1924.]

Short title. 1. This Ordinance may be cited as the Married Women's Property Ordinance.*

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

"contract " includes the acceptance of any trust or of the office of executrix or administratrix, and the provisions of this Ordinance as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by any married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to such liabilities, unless he has acted or intermeddled in the trust or administration -

"immovable property" includes land, incorporeal hereditaments and things attached to the earth or permanently fastened to anything which is attached to the earth, and any interest in land except that of a mortgagee;

"movable property " means property of every description, except immovable property, and includes a thing in action.

3. (1) Whenever a woman marries, after the commencement of this Ordinance, a man of different race or nationality from her own, she shall, subject to the provisions of section 3 of the Jaffna Matrimonial Rights and Inheritance Ordinance, and of the Kandyan Marriage and Divorce Act, be taken to be of the same race or nationality as her husband for all the purposes of this Ordinance, so long as the marriage subsists and until she marries again.

(2) Save as aforesaid, this Ordinance shall not apply to Kandyans, Muslims, or Tamils of the Northern Province who are or may become subject to the Tesawalamai.

(3) This Ordinance shall not, during the subsistence of such marriages, apply to women married in community of property prior to the 29th day of June, 1877.

4. Sections 4 to 19 (both inclusive) of the Matrimonial Rights and Inheritance Ordinance are hereby repealed in so far as they relate to persons married on or after the 29th day of June, 1877 :

Provided, however, that such repeal shall not affect any act done or right or status acquired while such sections were in force, or any right or liability of any husband or wife, married before the commencement of this Ordinance, to sue or be sued under the provisions -of the said repealed sections, for or in respect of any debt, contract, wrong, or other matter or thing whatsoever, for or in respect of which any such right or liability

On inter-marriage of persons of different races, or nationalities, laws to which husband subject to prevail; Ordinance not otherwise to apply to Kandyans, Muslims, or Tamils under the Tesawatamai. or persons married in community.

Repeal of sections 4 to 19 of the Matrimonial Rights and Inheritance Ordinance.

* See also section 24 (2) of the Judicature Act.

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shall have accrued to or against such husband or wife before the commencement of this Ordinance.

(4) Every married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the insolvency laws in the same way as if she were a feme-sole.

Married woman to be capable of holding property and of contracting as if unmarried.

5. (I) A married woman shall, in accordance with the provisions of this Ordinance, be capable of acquiring, holding, and disposing by will or otherwise of any movable or immovable property as her separate property, in the same manner as if she were a feme-sole, without the intervention of any trustee.

6. Any will made by a married woman during the subsistence of her marriage shall, whether she is or is not possessed of or entitled to any separate property at the time of making it, be construed, as regards the property contained therein, to speak and take effect as if it had been executed immediately before her death:

(2) A married woman shall be capable of entering into, and rendering herself liable in respect of and to the extent of her separate property on, any contract, and of suing and being sued, either in contract or in tort, or otherwise, in all respects as if she were a feme-sole, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; nor shall he be liable, merely on the ground that he is her husband, in respect of any tort committed by her and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise.

Provided, however, that there shall appear nothing in the will showing a contrary intention.

(3) Every contract hereafter entered into by a married woman otherwise than as agent—

7. Every woman who marries after the commencement of this Ordinance shall be entitled to have and to hold as her separate property, and to dispose of in manner aforesaid, all movable and immovable property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage, including any wages, earnings, money, and property gained or acquired by her in any employment, trade, or occupation in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic, or scientific skill.

Property of a woman married after the Ordinance to be held by her as a feme-sole.

- (a) shall be deemed to be a contract entered into by her with respect to and to bind her separate property whether she is or is not in fact possessed of or entitled to any separate property at the time when she enters into such contract;
- (b) shall bind all separate property which she may at that time or thereafter be possessed of or entitled to; and
- (c) shall also be enforceable by process of law against all property which she may thereafter while discovered be possessed of or entitled to.

8. Any money or other property of the wife lent or entrusted by her to her husband for the purpose of any trade or business carried on by him, or otherwise, shall be treated as assets of her husband's estate in case of his insolvency, under reservation of the wife's claim to a dividend -s a creditor for the amount or value of such money or other property after, but not before, all claims of the other creditors of the husband for valuable consideration in money or money's worth have been satisfied.

Loans by wife to husband.

9. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Ordinance.

Execution of general power.

Property acquired after the Ordinance by a woman married before the Ordinance to be held by her as if unmarried.

10. (1) Every woman married before the commencement of this Ordinance shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property all movable and immovable property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue after the commencement of this Ordinance, including any wages, earnings, money, and property so gained or acquired by her as aforesaid.

(2) If any woman married before the commencement of this Ordinance shall, with the written consent of her husband, dispose by sale of any immovable property to which she may have become entitled before the commencement of this Ordinance, the proceeds of any such sale shall, whether the same are retained in the form of money or otherwise, remain the property of such woman, but subject always to the same trusts as affected the immovable property from the sale of which such proceeds are derived.

Sums secured by mortgages executed before commencement of Ordinance in favour of married women.

11. (1) All sums secured in favour of a married woman by any mortgage deed executed before the commencement of this Ordinance shall be deemed, unless or until the contrary be shown, to be the separate property of such married woman, and any such mortgage deed shall be sufficient prima facie evidence that she is beneficially entitled to the amount thereby expended to be secured in her favour for her separate use, so as to authorize and empower her to receive or otherwise deal with the same, and to receive the interest and profits thereof, without the concurrence of her husband, and to indemnify any person liable to pay the sum secured by any such mortgage as aforesaid, in respect thereof.

(2) The provisions of this section shall apply to the right, title, and interest of any such married woman in respect of any sums secured by any such mortgage to which she is a party jointly with any person or persons, whomsoever.

(3) If any investment in any such mortgage shall have been made by a married woman by means of moneys of her husband, without his consent, the court

may, upon an application under section 23 of this Ordinance, order such investment and the interest thereon or any part thereof, to be transferred and paid respectively to the husband.

12. All deposits in any post office or other savings bank, or in any other bank, all annuities granted by any person, and all sums forming part of the public stocks or funds, which at the commencement of this Ordinance are standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial, or otherwise, or of or in any industrial, provident, friendly, benefit, building, or loan society, which at the commencement of this Ordinance are standing in her name, shall be deemed, unless and until the contrary be shown, to be the separate property of such married woman; and the fact that any such deposit, annuity, sum forming part of the public stocks or funds, share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient prima facie evidence that she is beneficially entitled thereto for her separate use, so as to authorize and empower her to receive or transfer the same, and to receive the dividends, interest and profits thereof, without the concurrence of her husband, and to indemnify the Postmaster-General, and all directors, managers, and trustees of every such bank, corporation, company, public body, or society as aforesaid, in respect thereof.

As to deposit in bank, public stocks, &c., to which a married woman is entitled.

13. All sums forming part of the public stocks or funds, and all such deposits and annuities respectively as are mentioned in the last preceding section, and all shares, stock, debentures, debenture stock, and other interests of or in any such corporation, company, public body, or society as aforesaid, which after the commencement of this Ordinance shall be allotted to, or placed, registered, or transferred in or into, or made to stand in, the sole name of any married woman, shall be deemed, unless and until the contrary be shown, to be her separate property, in respect of which, so far as any liability may be incident thereto, her separate estate shall

As to deposit in bank, public stocks, Ac., to be transferred, &c., to a married woman.

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alone be liable, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded, or not:

Provided always that nothing in this Ordinance shall require or authorize any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein to which any liability may be incident, contrary to the provisions of any Act of the Parliament of the United Kingdom, enactment, Charter, by-law, articles of association, or deed of settlement regulating such corporation or company.

Investments in joint names of a married woman and others.

14. All the provisions hereinbefore contained as to deposits in any post office or other savings bank, or in any other bank, annuities, sums forming part of the public stocks or funds, shares, stock, debentures, debenture stock, or other interests of or in any such corporation, company, public body, or society as aforesaid respectively, which at the commencement of this Ordinance shall be standing in the sole name of a married woman, or which, after that time, shall be allotted to, or placed, registered, or transferred to or into, or made to stand in, the sole name of a married woman, shall respectively extend and apply, so far as relates to the right, title, or interest of the married woman, to any of the particulars aforesaid which, at the commencement of this Ordinance, or at any time afterwards, shall be standing in, or shall be allotted to, placed, registered, or transferred to or into, or made to stand in, the name of any married woman jointly with any person or persons other than her husband.

As to stock, Ac., standing in the joint names of a married woman and others.

15. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such annuity or deposit as aforesaid, or any sum forming part of the public stocks or funds, or any share, stock, debenture, debenture stock, or other benefit, right, claim, or other interest of or in any such corporation, company, public body, or society as aforesaid, which is now or shall at any time hereafter be standing in the sole name of any married woman, or in the joint

names of such married woman and any other person or persons not being her husband.

16. If any investment in any such deposit or annuity as aforesaid, or in any of the public stocks or funds, or in any share, stock, debenture, or debenture stock of any corporation, company, or public body, municipal, commercial, or otherwise, or in any share, debenture, benefit, right, or claim whatsoever in, to, or upon the funds of any industrial, provident, friendly, benefit, building, or loan society, shall have been made by a married woman by means of moneys of her husband, without his consent, the court may, upon an application under section 23 of this Ordinance, order such investment and the dividends thereof, or any part thereof, to be transferred and paid respectively to the husband; and nothing in this Ordinance contained shall give validity us against creditors of the husband to any gift, by a husband to his wife, of any property, which, after such gift shall continue to be in the order and disposition or reputed ownership of the husband, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any money so deposited or invested may be followed as if this Ordinance had not been passed.

Fraudulent investments with money of husband.

17. (1) A married woman may by virtue of the power of making contracts hereinbefore contained effect a policy of insurance upon her own life or the life of her husband for her separate use; and the same and all benefit, thereof shall enure accordingly.

Moneys payable under policy of insurance.

(2) A policy of assurance effected by any man on his own life, and expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them, or by any woman on her own life, and expressed to be for the benefit of her husband, or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects therein named, and the moneys payable under any such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts :

Provided that if it shall be proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid ;

Provided further that, notwithstanding anything herein contained, any money received under any such policy shall be subject to the payment of estate duties under the Estate Duty Ordinance or the Estate Duty Act, upon the whole amount of such money where such policy is wholly kept up by the husband or wife, as the case may be, or upon a part of such amount in proportion to the amount of the premiums paid by him or her, where the policy is partially kept up by such husband or wife as aforesaid.

(3) The insured may by the policy, or by any memorandum under his or her hand, appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy.

(4) In default of any such appointment of a trustee, such policy immediately on its being effected, shall vest in the insured and his or her executor or administrator, in trust for the purposes aforesaid.

(5) If, at the time of the death of the insured, or at any time afterwards, there shall be no trustee, or it shall be expedient to appoint a new trustee or new trustees, a trustee or trustees or a new trustee or new trustees may be appointed by any court having jurisdiction under the provisions of the Trusts Ordinance, or any enactment amending and extending the same.

(6) The receipt of a trustee or trustees duly appointed, or, in default of any such appointment, or in default of notice to the insurance office, the receipt of the executor or administrator of the insured shall be a

discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

18. (1) Every woman, whether married before or after this Ordinance, shall have in her own name against all persons whomsoever, including her husband, the same civil remedies, and also (subject, as regards her husband, to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings, for the protection and security of her own separate property, as if such property belonged to her as a feme-sole, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort.

Remedies of a married woman for protection and security of separate property.

(2) In any indictment or other proceeding under this section it shall be sufficient to allege such property to be her property.

(3) In any proceeding under this section a husband or wife shall be competent and, except when he or she is the accused, compellable to give evidence against each other, any enactment or rule of law to the contrary notwithstanding.

(4) Provided always that no criminal proceedings shall be taken by any wife against her husband by virtue of this Ordinance while they are living together, as to or concerning any property claimed by her, nor while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting, or about to leave or desert, his wife.

19. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage, including any sums for which she may be liable as a contributory, either before or after she has been placed on the list of contributories, under and by virtue of the enactments relating to joint stock companies; * and she may be sued for any

Wife's ante-nuptial debts and liabilities.

* Repealed by the Companies Ordinance — itself repealed by Act No. 17 of 1982. See also section 364(1) of the Companies Ordinance.-

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such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all 'sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts, or wrongs, and for all damages or costs recovered in respect thereof:

Provided always that nothing in this Ordinance shall operate to increase or diminish the liability of any woman married before the commencement of this Ordinance for any such debt, contract, or wrong as aforesaid, except as to any separate property to which she may become entitled by virtue of this Ordinance, and to which she would not have been entitled for her separate use under the sections hereby repealed or otherwise, if this Ordinance had not been passed.

Limit of husband's liability for his wife's debts or liabilities contracted before marriage.

20. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, including any liabilities to which she may be so subject under the enactments relating to Joint stock companies* as aforesaid, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment may have been bona fide recovered against him in any proceeding at law, in respect of any such debts, contracts, or wrongs for or in respect of which his wife was liable before her marriage as aforesaid ; but he shall not be liable for the same any further or otherwise; and any court in which a husband shall be sued for any such debt shall have power to ascertain or to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount or value of such property;

Provided always that nothing in this Ordinance contained shall operate to

* Repealed by the Companies Ordinance itself repealed by Act No. 17 of 1982. See also section 364 (1) of the Companies Ordinance.

increase or diminish the liability of any husband married before the commencement of this Ordinance for or in respect of any such debt or other liability of his wife as aforesaid.

21. (1) A husband and wife may be jointly sued in respect of any such debt or other liability (whether by contract or for any wrong) contracted or incurred by the wife before marriage as aforesaid, if the plaintiff in the action shall seek to establish his claim, either wholly or in part against both of them.

Suits for antenuptial liabilities.

(2) If in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him.

(3) In any such action against husband and wife jointly, if it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only.

22. (1) A wife doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Ordinance, shall in like manner be liable to criminal proceedings by her husband.

When wife is liable to criminal proceedings in respect of act done with respect to husband's property.

(2) In any proceeding under this section, a husband and wife shall be competent, and, except when he or she is the accused, compellable, to give evidence against each other, any enactment or rule of law to the contrary notwithstanding.

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Questions between husband and wife as to property to be decided in a summary way.

23. (1) In any question between husband and wife as to the title or possession of property, either party, or any such bank, corporation, company, public body, or society, as aforesaid, in whose books any stocks, funds, or shares of either party may be standing, may apply by petition in a summary way as provided for in Chapter XXIV of the Civil Procedure Code, to the Family Court of the district in which either party resides.

(2) The Judge of the Family Court may make such order, direct or make such inquiry, and award such costs as he shall think fit.

(3) The Judge of the Family Court may, if either party so require, hear the application in his private room.

(4) Any order so made shall be subject to appeal to the Court of Appeal, and for the purposes of such appeal shall be regarded as an interlocutory order of the Family Court.

(5) Any such bank, corporation, company, public body, or society as aforesaid shall, in the matter of such application for the purposes of costs or otherwise, be treated as a stakeholder only.

(6) Every such petition shall bear a stamp of ten rupees and no more.

Married woman as trustee, executrix, or administratrix.

24. A married woman who is a trustee solely or jointly with any other person or persons of property subject to any trust, or who is an executrix or administratrix solely or jointly as aforesaid of the estate of any deceased person, may sue or be sued, and may, without her husband, dispose of or join in disposing of any movable or immovable property held by her as such trustee, executrix, or administratrix, as if she were a feme-sole.

25. Nothing in this Ordinance contained shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman.

Saving of existing settlements, and the power to make future settlements.

26. When a married woman having sufficient separate property neglects or refuses to maintain her husband, who through illness or otherwise is unable to maintain himself, the Judge of the Family Court* within whose jurisdiction such woman resides may, upon application of the husband, make and enforce such order against her for the maintenance of her husband out of such separate property as by section 2 of the Maintenance Ordinance, he may now make and enforce against a husband for the maintenance of his wife.

Married woman to be liable for the maintenance of her husband.

27. A married woman having separate property adequate for the purpose shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children:

A married woman with separate property liable for the maintenance of her children.

Provided that nothing in this Ordinance shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

28. For the purposes of this Ordinance the executor or administrator of any married woman shall in respect of her separate estate have the same rights and liabilities and be subject to the same jurisdiction as she would be if she were living.

Liability of executor or administrator of married woman.

29. From and after the commencement of this Ordinance the benefit of the Senatus Consultum Velleianum, the benefit of the Authentica si qua Mulier, and of the Article 6 of the Placaat or Edict of the Emperor Charles V dated the 4th day of October, 1540, relating to marriage settlements shall not apply or have any force whatsoever in Sri Lanka.

Abrogation of certain laws.

* Subsequently vested in the Magistrate's Court by the Judicature (Amendment Act), No. 71 of 1981.

CHAPTER 405

MAHANUWARA YOUNG MEN'S BUDDHIST ASSOCIATION

Law
No. 22 of 1974.

A LAW TO INCORPORATE THE MAHANUWARA YOUNG MEN'S BUDDHIST ASSOCIATION.

[27th June, 1974.]

Short title.

1. This Law may be cited as the Mahanuwaru 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.

Committee of Management.

Incorporation of the Mahanuwaru Young Men's Buddhist Association.

2. From and after the date of the commencement of this Law the President, Vice-Presidents, and members of the Committee of Management for the time being of the Mahanuwaru Young Men's Buddhist Association, and such and so many persons as now are members of the said Mahanuwaru 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 "Mahanuwaru 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.

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).

Rules of the Corporation.

General objects of the corporaouon.

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 the encouragement to Buddhists of living 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.

(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 7

MARITIME ZONES

Law A LAW TO PROVIDE FOR THE DECLARATION OF THE TERRITORIAL SEA AND OTHER
 No. 22 of 1976. MARITIME ZONES OF SRI LANKA, AND ALL OTHER MATTERS CONNECTED
 THEREWITH OR INCIDENTAL THERETO. [1st September. 1976.]

Short Title. **1.** This Law may be cited as the **Maritime Zones Law.** (2) No foreign aircraft shall enter or pass through the air space above the territorial sea, except in accordance with the written laws in force in Sri Lanka :

Territorial sea. **2.** (1) The President of the Republic of Sri Lanka may, by Proclamation published in the Gazette, declare the limits of the sea beyond the land territory and internal waters of Sri Lanka which shall be the territorial sea of Sri Lanka, specifying in such Proclamation the base-lines from which such limits shall be measured. The waters on the landward side of such base-lines shall form part of the internal waters of Sri Lanka.

(2) Where an island or rock, or a group of islands and rocks, or a group of islands or a group of rocks, constituting part of the territory of Sri Lanka is situated seaward from the main coast or base-line, the territorial sea shall extend to the limits declared by the Proclamation under subsection (1) measured from the low-water mark of ordinary spring tides along the seaward edge of such island or rock, or group of islands and rocks, or group of islands or group of rocks.

(3) The sovereignty of the Republic extends to the territorial sea and to the air space over the territorial sea as well as to its bed and sub-soil.

(4) The Minister may, by Order published in the Gazette, suspend, in a specified area or areas of the territorial sea the right of innocent passage of any ship, if, in his opinion, such suspension is necessary in order to safeguard the peace, good order or security of the Republic.

(3) A foreign ship or foreign aircraft which acts in contravention of the provisions of this section is liable to confiscation.

Use of territorial sea by foreign ships and aircraft. **3.** (1) Ships of all States shall enjoy the right of innocent passage through the territorial sea. Passage is innocent only so long as such passage is not prejudicial to the peace, good order or security of the Republic:

Provided that no foreign warship shall enter or pass through the territorial sea except with the prior consent of, and subject to such conditions as may be specified by, the Minister.

4. (1) The President may, by Proclamation published in the Gazette, declare the limits of a zone contiguous to the territorial sea and extending seawards from the outer limits of the territorial sea which shall be the contiguous zone of Sri Lanka. Contiguous zone.

(2) Where there is a reasonable apprehension of the contravention of any written laws of Sri Lanka in relation to-

(a) the security of the Republic ;
 (b) immigration, health and sanitation ; or
 (c) customs and other revenue matters,

the relevant Minister shall take such measures as may be necessary in respect of the contiguous zone in order to secure the enforcement of, or to prevent the contravention of, such laws.

5. (1) The President may, by Exclusive Proclamation published in the Gazette, declare any zone of the sea adjacent to the territorial sea, as well as the sea-bed and

sub-soil thereof, to be the exclusive economic zone of Sri Lanka. The limits of such zone shall be specified in the Proclamation.

(2) All the natural resources, both living and non-living, within the exclusive economic zone, on and under the sea-bed and in the sub-soil and on the water surface and within the water column shall vest in the Republic.

(3) In the exclusive economic zone the Republic has -

- (a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living, as well as for the production of energy from tides, winds and currents, and for other economic uses;
- (h) exclusive rights and jurisdiction to authorize, regulate and control scientific research;
- (c) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the zone, for the convenience of shipping or for any other purpose ; and
- (d) other rights recognized by international law.

6. (1) the continental shelf of Sri Lanka shall comprise-

- (a) the sea-bed and sub-soil of the submarine areas that extend beyond the territorial sea of Sri Lanka throughout the natural prolongation of the land territory of Sri Lanka to the outer edge of the continental margin or to a distance of two hundred nautical miles from the base-line from which the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance ; and
- (b) the sea-bed and sub-soil of the analogous submarine areas adjacent to the coast of any island or rock, or group of islands and rocks, or group of islands or group of rocks, constituting part of the territory of Sri Lanka.

(2) All the natural resources, both living and non-living, on and under the sea-bed and in the sub-soil of the continental shelf shall vest in the Republic.

(3) In respect of the continental shelf the Republic has-

- (a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living;
- (b) exclusive rights and jurisdiction to authorize, regulate and control scientific research;
- (c) exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the continental shelf, for the convenu,iii-c of shipping or for any other purpose; and
- (d) other rights recogized by international law.

7. (1) The President may, by Proclamation published in the Gazette, declare any zone of the sea adjacent to the territorial sea, and of the sea-bed and sub-soil thereof, to be the pollution prevention zone of Sri Lanka. The limits of such zone shall be specified in the Proclamation.

Pollution prevention zone.

(2) The relevant Minister, shall take such steps as may be necessary to control and prevent the pollution of, and to preserve the ecological balance within, such zone.

8. Notwithstanding the provisions of this Law or any other written law-

- (a) the boundary between Sri Lanka and India in the waters from Palk Strait to Adam's Bridge shall be the arcs of Great Circles between the following positions in the sequence given hereunder defined by latitude and longitude :

- Position 1 : 10° 05'North, 80° 03'East
- Position 2 : 09° 57' North, 79°-35' East
- Position 3 : 09° 40.15' North, 79° 22.60' East
- Position 4 : 09° 21.80' North. 79° 30.70' East
- Position 5 : 09° 13'North, 79° 32' East
- Position 6: 09° W North. 79° 32' Ea>l:

Maritime boundary between Sri Lanka and India.

Continental shelf.

(b) the boundary between Sri Lanka and India in the Gulf of Mannar shall be the arcs of Great Circles between the following positions in the sequence given hereunder defined by latitude and longitude :

- Position 1m : 09° 06.0' North, 79° 32.0' East
- Position 2m : 09° 00.0' North, 79° 31.3' East
- Position 3m : 08° 53.8' North, 79° 29.3' East
- Position 4m : 08° 40.0' North, 79° 18.2' East
- Position 5m : 08° 22.2' North, 79° 13.0' East
- Position 6m : 08° 31.2' North, 79° 04.7' East
- Position 7m : 08° 22.2' North, 78° 55.4' East
- Position 8m : 08° 12.2' North, 78° 53.7' East
- Position 9m : 07° 35.3' North, 78° 45.7' East
- Position 10m : 07° 21.0' North, 78° 38.8' East
- Position 11m : 06° 30.8' North, 78° 12.2' East
- Position 12m : 05° 53.9' North, 77° 50.7' East
- Position 13m : 05° 00.0' North, 77° 10.6' East;

(c) the boundary between Sri Lanka and India in the Bay of Bengal shall be the arcs of Great Circles between the following positions in the sequence given hereunder defined by latitude and longitude :

- Position 1b : 10° 05.0' North, 80° 03.0' East
- Position 1ba : 10° 05.8' North, 80° 05.0' East
- Position 1bb : 10° 08.4' North, 80° 05.5' East
- Position 2b : 10° 33.0' North, 80° 46.0' East
- Position 3b : 10° 41.7' North, 81° 02.5' East
- Position 4b : 11° 02.7' North, 81° 56.0' East
- Position 5b : 11° 16.0' North, 82° 24.4' East
- Position 6b : 11° 26.6' North, 83° 22.0' East

9. (1) The President may be Proclamation published in the Gazette, declare the limits of the historic waters of Sri Lanka. Historic waters.

(2) The Republic of Sri Lanka shall exercise sovereignty, exclusive jurisdiction and control in and over the historic waters, as well as in and over the islands and the continental shelf and the sea-bed and sub-soil thereof within such historic waters.

10. As soon as may be convenient after the coming into operation of this Law, and thereafter whenever necessary, the Minister may require the Surveyor-General to publish or cause to be published a map indicating the low-water mark of ordinary spring tides, the base-lines for measurement of the territorial sea, and the outer limits of the territorial sea and other maritime zones and jurisdiction of Sri Lanka declared in accordance with the provisions of this Law. Publication of map.

11. Notwithstanding anything to the contrary in any other written law, every reference in any written law to the expressions " territorial waters ", " territorial sea ", " coastal waters ", " contiguous zone ", " exclusive economic zone ", " continental shelf ", or " pollution prevention zone " shall be read and construed subject to and in accordance with the provisions of this Law. Amendment of other written laws.

12. In order to give effect to the principles and provisions of this Law, all written laws in force in Sri Lanka shall be read and construed as though the applicability of such laws, wherever relevant, extends to the limits of the contiguous zone, the exclusive economic zone, the continental shelf, or the pollution prevention zone, as the case may be. Construction of other laws.

13. (1) The Minister may make regulations for the purpose of giving effect to the provisions of this Law. Regulations.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or upon such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation

which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

Minister's Certificate.

14. In any proceedings before any court in Sri Lanka, if a question arises as to whether any act or omission has been done or omitted to be done within or without the territorial sea of Sri Lanka, or in any other zone or jurisdiction declared under this Law, a certificate of the Minister signed by him shall be *prima facie* proof of the place where such act or omission was done or omitted to be done.

Interpretation.

15. In this Law, unless the context otherwise requires-

"foreign aircraft" shall have the same meaning as in the Air Navigation Act;

"military aircraft " means an aircraft which by reason of the equipment contained therein, could be used for any warlike purpose;

ship " means any description of ship or vessel or boat, or any other description of vessel used in navigation on or below the waters and not exclusively propelled by oars, paddles or poles, and includes all equipment, apparel and appurtenances (excluding supplies for maintenance) which are necessary for navigation and conduct of the business of the ship; and

"warship " means a ship which by reason of the equipment contained therein, could be used for any warlike purpose.