



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

DRAFT ORDINANCES.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

**An Ordinance to impose a Tax on Motor Vehicles
using uncustomed Oil as Fuel.**

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

1 This Ordinance may be cited as the Heavy Oil Motor Vehicles Taxation Ordinance, No. of 1935.

Short title.

2 (1) On and after the first day of January, 1936, the registered owner of a heavy oil motor vehicle shall be liable to pay in respect of that vehicle and in the manner hereinafter provided a tax determined in accordance with the rates prescribed in the First Schedule.

Imposition of a tax on heavy oil motor vehicles.

First Schedule.

(2) The tax due in respect of any heavy oil motor vehicle shall be paid in advance either annually or monthly at the Kachcheri of the Government Agent having jurisdiction over the place set out in the certificate of registration of that vehicle as the place in which that vehicle is usually kept. Where the tax is paid annually, it shall be deemed to be due on the first day of January and shall be paid on or before the seventh day of January of the year for which the tax is

payable; and where the tax is paid monthly it shall be deemed to be due on the first day and shall be paid on or before the seventh day of the month for which the tax is payable.

(3) Where a heavy oil motor vehicle is registered in the course of any month of any year, tax shall be payable in respect of that vehicle for the whole of the month in the course of which that vehicle was registered and if the registration was effected after the seventh day of that month, the tax shall become due and shall be paid forthwith upon the registration of that vehicle.

(4) No tax shall be payable in respect of a heavy oil motor vehicle proved to the satisfaction of the Government Agent not to have been used for any continuous period exceeding thirty days and the registered owner shall, if any tax has been paid in advance for such period or any part thereof, be entitled to a refund of that tax or to a set off of the amount so paid against any tax which may thereafter be payable in respect of that vehicle. Nothing in this sub-section shall be deemed to apply to any period of time prior to the date on which any heavy oil motor vehicle is registered.

(5) Any person who pays the tax due in respect of any heavy oil motor vehicle in advance for a whole year or for any unexpired part of a year not being less than two months shall be entitled to a reduction of tax equivalent to five per centum of the total amount due for that year or for such unexpired part of that year, as the case may be, calculated at the monthly rate specified in the First Schedule.

(6) The tax imposed by this Ordinance shall be in addition to any other tax, duty, fee or charge imposed under the Motor Car Ordinance, 1927, or under any other written law, and shall, when paid, be credited to the general revenue of the Island.

No. 20 of 1927.

Collection
of tax.

3 (1) The Registrar of Motor Cars and every licensing authority shall furnish to the Government Agent all necessary particulars and information relating to any heavy oil motor vehicle in respect of which tax has to be paid at his Kachcheri under the provisions of this Ordinance.

(2) When any tax imposed by this Ordinance on any heavy oil motor vehicle is paid at any Kachcheri for the first time in any year, the Government Agent shall issue to the person making such payment a motor tax payment card (hereinafter referred to as a "payment card") in acknowledgment of the receipt of the tax so paid.

(3) Every payment card shall be substantially in the form prescribed in the Second Schedule.

(4) The payment card relating to a heavy oil motor vehicle shall at all times be carried on that vehicle and shall forthwith be produced for inspection by the driver thereof on demand made by any police officer or by an Examiner of Motor Cars; and if upon such demand the payment card is not so produced by the driver of the vehicle, it shall be presumed, until the contrary is proved, that the tax payable under this Ordinance in respect of that vehicle has not been paid at the time of such demand.

(5) Where it is proved to the satisfaction of the Government Agent that any payment card issued under this section has been lost, torn, defaced or destroyed, the Government Agent may issue a duplicate in place thereof on payment of a fee of one rupee.

Recovery of
unpaid tax.

4 (1) Where default is made in the payment of any tax due in respect of any heavy oil motor vehicle under the provisions of this Ordinance, it shall be lawful for the Government Agent to issue to the Police Magistrate having jurisdiction over the place where the registered owner of that vehicle is resident a certificate specifying the amount so due together with a statement to the effect that the notice required by sub-section (2) has been duly served on that registered owner and that a period of seven days has elapsed since the date of service of that notice; and the Magistrate shall, upon receipt of such certificate and statement, forthwith direct the amount to be recovered as though it were a fine imposed by him on the registered owner of that vehicle; and such amount may be so recovered notwithstanding the fact that it exceeds the amount of fine which a Police Magistrate may impose in the exercise of his ordinary jurisdiction.

(2) Before issuing his certificate to the Police Magistrate under sub-section (1), the Government Agent shall, by notice under his hand duly served on the registered owner who is in default, call upon such owner to pay the amount of the unpaid

tax within a period of seven days reckoned from the date of service of such notice. Simultaneously with the issue of such notice, the Government Agent may by order under his hand direct any police officer to seize and sequester the heavy oil motor vehicle in respect of which the default has been made and, upon such seizure, the licence issued in respect of that vehicle under the Motor Car Ordinance, 1927, shall be deemed to be suspended and shall continue to be regarded as suspended until payment of the amount of unpaid tax or until that vehicle is sold by public auction as hereinafter provided.

(3) Notwithstanding anything in any other written law to the contrary, the Police Magistrate may, upon receipt of the certificate and statement referred to in sub-section (1), direct the heavy oil motor vehicle in respect of which tax is unpaid to be sold by public auction by the Fiscal or by an auctioneer or some other person appointed for the purpose. Any balance remaining out of the proceeds of sale after recovery and payment of the total amount of tax due and of the costs of seizure, sequestration and sale, shall be paid to the registered owner of the vehicle sold. The purchaser of the vehicle at such auction shall be entitled to be registered as the owner of that vehicle and shall by such purchase acquire title thereto free from all encumbrances :

Provided that if at any time before the auction the amount due in respect of tax and costs of seizure, sequestration and sale is paid into court or to such Fiscal, auctioneer, or other person, the sale shall not be held and the vehicle shall by order of the Police Magistrate be released from seizure and restored to the registered owner thereof.

(4) For the purposes of this section, a notice shall be deemed to have been duly served on the registered owner of any heavy oil motor vehicle if such notice was served on him personally or was sent by registered post addressed to him at the address set out in the certificate of registration of that vehicle. In the case of a notice sent by registered post, the notice shall be deemed to have been received by the addressee on the date on which it would ordinarily have been delivered to him.

5 (1) No person shall possess or use a heavy oil motor vehicle in respect of which any tax due and payable under the provisions of this Ordinance has not been paid.

Offences and penalties.

(2) Any person who possesses a heavy oil motor vehicle in contravention of the provisions of sub-section (1) shall be guilty of an offence and shall be liable 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 imprisonment.

(3) The registered owner and the driver of any heavy oil motor vehicle which is used in contravention of the provisions of sub-section (1) shall severally be guilty of an offence and shall be liable 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 imprisonment.

(4) Nothing in this section contained shall apply to the possession or use of any heavy oil motor vehicle under a dealer's licence.

6 (1) This Ordinance shall be supplementary to the Motor Car Ordinance, 1927, and shall be read and construed as one with that Ordinance.

Construction and interpretation of Ordinance.

(2) In this Ordinance, unless the context otherwise requires—

- (a) any expression defined in section 2 of the Motor Car Ordinance, 1927, shall have the same meaning as in that Ordinance ;
- (b) " Government Agent " includes an Assistant Government Agent ;
- (c) " heavy oil " means crude petroleum, liquid fuel, gas oil, or any other oil not subject to import duty under the provisions of Ordinance No. 17 of 1869 ;
- (d) " heavy oil motor vehicle " means any motor car equipped with a compression-ignition or other engine which uses or is adapted to use any heavy oil as fuel ;
- (e) " police officer " includes any Headman ;
- (f) " registered owner " means the person registered as the owner of a motor car under the provisions of the Motor Car Ordinance, 1927.

FIRST SCHEDULE.

Tax payable in respect of heavy oil motor vehicles.

(Section 2.)

Description of vehicle.	Tax.	
	Monthly rate.	
	Rs.	c.
Where the tare of the heavy oil motor vehicle—		
(a) does not exceed 1 ton ..	55	0
(b) exceeds 1 ton but does not exceed 1½ tons ..	60	0
(c) „ 1½ tons „ 2 „ ..	65	0
(d) „ 2 „ „ 2½ „ ..	70	0
(e) „ 2½ „ „ 3 „ ..	75	0
(f) „ 3 „ „ 3½ „ ..	80	0
(g) „ 3½ „ „ 4 „ ..	90	0
(h) „ 4 „ „ 4½ „ ..	100	0
(i) „ 4½ „ „ 5 „ ..	110	0
(j) „ 5 „ ..	120	0

SECOND SCHEDULE.

Form of payment card. (Section 3.)

Payment card of heavy oil motor vehicle.

Distinctive No.

Monthly Tax : Rs.

(N.B.—To be carried on the vehicle and to be produced whenever required by a police officer or by an Examiner of Motor Cars—*vide* section 3 (3) of the Heavy Oil Motor Vehicles Taxation Ordinance, 1935).

DETAILS OF TAX PAID.

Year.	Month.	Tax paid.		Date of Payment.	Kach-cheri at which tax is paid.	Signature of Government Agent or Asst. Government Agent.	Remarks.
		Rs.	c.				
	January ..						
	February ..						
	March ..						
	April ..						
	May ..						
	June ..						
	July ..						
	August ..						
	September ..						
	October ..						
	November ..						
	December ..						

Objects and Reasons.

The object of this Bill is to impose a tax on motor vehicles which use uncustomed oil as fuel. A duty of sixty-five cents is levied on every gallon of petrol which is imported into the Island but no duty is charged on the importation of gas oil which is used as fuel for motor vehicles equipped with compression-ignition engines, described in the Bill as 'heavy oil motor vehicles'.

2. There has been a marked increase in the number of heavy oil motor vehicles imported into Ceylon in recent times and this increase is no doubt attributable to the fact that such vehicles are economical to run because they use cheap and uncustomed oil as fuel.

3. The general revenue of the Island gains little from the licence duties paid under the Motor Car Ordinance, 1927, as the greater part of such duties is credited to the funds of the local authorities which licence the vehicles in their respective areas. A substantial part of the import duty on petrol may be regarded as a contribution by motorists to the

cost of the construction and maintenance of roads and highways, but the increasing importation of heavy oil motor vehicles is likely in the near future seriously to diminish the amount of that contribution.

4. It would be difficult to impose a duty on all gas oil as such oil is also used as fuel for stationary engines and it would be inequitable to tax the oil consumed by engines which are used for purposes entirely unconnected with the roads and motor traffic at rates commensurate with the import duty on petrol levied. It is therefore proposed to impose on heavy oil motor vehicles a tax calculated to re-imburse the Government to the extent of the amount estimated to be lost to revenue by reason of the fact that such vehicles do not use petrol but gas oil and other oil on which no import duty is paid. No tax will be payable in respect of vehicles which are temporarily out of use. In the result, the tax now sought to be imposed on heavy oil motor vehicles will equalise the incidence of taxation and place the owners of such vehicles in no more advantageous a position than the owners of other vehicles which use petrol as fuel for motive power.

5. Clause 1 of the Bill provides for the imposition of the tax which will be paid monthly in advance at the Kacheheri of the Government Agent. A discount of five per cent. will be allowed if a whole year's tax is paid in advance. Payments of tax will be entered on a payment card which will be issued for every heavy oil motor vehicle. This card must be produced for inspection whenever required by a police officer or an Examiner of Motor Cars. Unpaid tax will be recovered through the Police Court as though it were a fine imposed by that Court and the procedure provided in this connexion is analogous to that provided in the Stamp Ordinance, 1909, for the collection of unpaid stamp duty. Penalties are provided for the use on a highway of any heavy oil motor vehicle in respect of which any tax on instalment of tax has not been paid. In general, the Bill will be read and construed as one with the Motor Car Ordinance, 1927, and the ancillary procedure provided in that Ordinance will thus be available, so far as it is applicable, in the collection of the new tax and the administration of the Ordinance by which that tax will be imposed.

General Treasury,
Colombo, November 27, 1935.

H. J. HUXHAM,
Financial Secretary.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

An Ordinance to amend the Motor Car Ordinance, 1927. No. 20 of 1927.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

1 This Ordinance may be cited as the Motor Car Amendment Ordinance, No. of 1935. Short title.

2 The Motor Car Ordinance, 1927, (hereinafter referred to as "the principal Ordinance"), is hereby amended by the insertion between sections 69 and 70 of that Ordinance, of the following new section which shall have effect as section 69A of the principal Ordinance :— Insertion of a new section 69A in Ordinance No. 20 of 1927.

69A (1) The licensing authority shall specify by endorsement on the motor car licence issued for each omnibus the approved route or routes on which that omnibus may ply or stand for hire. Approved routes for omnibuses.

(2) Every endorsement made under sub-section (1) shall set out the two places which shall be the termini of the route or of each of the routes approved by the licensing authority, and where there is no direct road between such termini, shall in addition include directions as to the several highways to be followed by the omnibus in proceeding from one terminus to the other.

(3) A licensing authority shall not refuse to approve any proposed route on any ground other than the following :—

- (a) that the omnibus, owing to its weight, size, or construction, cannot safely be used on the proposed route ; or
- (b) that the proposed route is, owing to the condition of the route, including width and grade, unsuitable for omnibus traffic ; or
- (c) that the proposed route is generally so congested by traffic that additional omnibus traffic cannot safely be allowed thereon ; or
- (d) that the approval of the proposed route is likely in the opinion of that authority to lead to a breach of the peace or to endanger the safety of other traffic or of the public along that route.

(4) A licensing authority shall not approve any route outside its area except with the consent of every other licensing authority within whose area any part of such route lies.

(5) The licensing authority may, if it thinks fit, on the application of the registered owner of any licensed omnibus, alter from time to time any route endorsed on the licence for that omnibus.

(6) On the application of a police officer not below the rank of Superintendent, or of Assistant Superintendent in charge of a province, the police magistrate having jurisdiction over the place in which a licensed omnibus is usually kept, may, if he is satisfied that the use of any approved route by that omnibus is likely to lead to a breach of the peace or to endanger the safety of other traffic or of the public along that route—

- (a) by written order suspend for a specified period the endorsement relating to that route contained in the licence for that omnibus ;
- (b) hold any inquiry he may deem necessary ; and
- (c) by endorsement under his hand made on the licence, alter or modify the route in any manner or cancel or renew the endorsement relating to the route made by the licensing authority, as the circumstances of the case may require.

(7) Every order or endorsement made by a police magistrate under sub-section (6) shall be subject to an appeal to the Supreme Court at the instance of the licensee or of the police officer applying for the order, and whenever necessary, shall be amended or varied by a further endorsement under the hand of the police magistrate in accordance with the decision of the Supreme Court.

(8) The owner, the driver and the conductor of an omnibus shall severally be guilty of an offence, if that omnibus—

- (a) plies or stands for hire on any route other than an approved route endorsed on the licence for that omnibus by the licensing authority under sub-section (1) or by a police magistrate under sub-section (6) ; or
- (b) plies or stands for hire on any route at any time while an order suspending or cancelling the endorsement relating to that route is in force ; or
- (c) starting from either of the termini of its approved route fails to complete the journey along that route to the other terminus, except when it is prevented by accident, mechanical derangement, or tyre failure, or when it is proceeding without passengers to a workshop for repairs or to the garage or other place where it is usually kept :

Provided however that nothing in this sub-section shall be deemed to apply to any licensed omnibus plying on any route, other than a route approved for that omnibus, under the authority of a permit issued by the officer in charge of a police station, in such circumstances and subject to such conditions as may be prescribed by regulations under section 70.

Amendment of section 70 of the principal Ordinance.

3 Section 70 of the principal Ordinance is hereby amended in sub-section (1) thereof by the substitution, for paragraph (b) of that sub-section, of the following new paragraph :—

- “(b) Prescribing the special circumstances in which, and the conditions on which, a licensed omnibus may be authorised by permit to use a route other than a route approved for that omnibus ;”.

4 The Fourth Schedule to the principal Ordinance is hereby amended as follows :—

Amendment of the Fourth Schedule to the principal Ordinance.

- (1) by the repeal of regulation 1 thereof ;
- (2) by the renumbering of regulation 1A thereof as regulation 1 ; and
- (3) by the substitution in renumbered regulation 1, for all the words from " Notwithstanding " to " licensee ", of the words " The licensee ".

Objects and Reasons.

The object of this Bill is to insert in the Motor Car Ordinance, 1927, a new section which will enable a licensing authority under that Ordinance to endorse on every omnibus licence the routes approved for the omnibus to which the licence relates. The routes suggested by the licensee will ordinarily be accepted by the licensing authority and a refusal to approve any route so suggested will be permitted only on the grounds specified in sub-section (3) of the proposed new section. Provision has also been made for the alteration or cancellation of an endorsement on the application of a licensee or, in a case of actual or apprehended breach of the peace, on an application made to a Police Magistrate by a police officer not below the rank of Superintendent or Assistant Superintendent of Police in charge of a province. Recent events have shown that the amendments proposed are necessary in order to deal adequately with situations of danger or difficulty which may arise by reason of the increasing competition between rival omnibus services.

CHAS. BATUWANTUDAWE,
Minister for Local Administration.

Ministry of Local Administration,
Colombo, November 27, 1935.