



Ceylon Government Gazette

EXTRAORDINARY.

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Part II.—Legal.

Separate paging is given to each Part in order that it may be filed separately.

DRAFT ORDINANCE.

MINUTE.

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

An Ordinance relating to Contracts for Hire and Service.

WHEREAS it is expedient to repeal certain provisions of Ordinance No. 11 of 1865 and of Ordinance No. 13 of 1889, which render servants, labourers, journeymen, artificers, employees, and employers liable to criminal proceedings in respect of failure to carry out the terms of contract for hire and service:

Preamble.

And whereas it is also expedient to make provision against the issue and use of documents, commonly known as *tundus*, in respect of such labourers as aforesaid:

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

1 This Ordinance may be cited as "The Labour Ordinance, No. of 1921."

Short title.

2 Section 24 of Ordinance No. 13 of 1889 shall be repealed, and the following section shall be inserted in its place:

Repeal of section 24 of Ordinance No. 13 of 1889 and insertion of new section in its place.

24. (1) Whenever any labourer quits the service of any employer, having given the notice or warning required by law, it shall be the duty of the employer to prepare a discharge ticket as nearly as material in the form III. in schedule C. If the labourer entered the service of the employer on a discharge ticket, the employer shall file such discharge ticket in his office, and shall prepare a new discharge ticket.

Duty of employer to issue and forward discharge ticket, and penalty for default.

(2) Where the labourer quits the service of his employer in order to take service with some other employer in Ceylon, the former employer shall forthwith forward the discharge ticket to the new employer. But in no case shall the discharge ticket be given to the labourer.

(3) Where a labourer has given the notice or warning required by law, but has not, at the time when he quits the service of his employer, secured any other employment, it shall be the duty of the employer to give him a memorandum in the form IV. in schedule C stating that the labourer has duly given notice, and that a formal discharge ticket will be issued to any new employer on application. Upon such application being made, it shall be the duty of the employer to forward to the new employer within five days of the date of application a discharge ticket.

(4) Any employer who fails to prepare or to forward a discharge ticket, or to give to any labourer a memorandum in any case where he is required by this section to do so, shall be guilty of an offence, and shall be liable on conviction thereof to a fine which may extend to one hundred rupees, and a further fine not exceeding five rupees for every day during which such default shall continue.

Substitution of new forms for forms II., III., IV., V., VI., VII., and VIII. in schedule C of principal Ordinance.

3 For forms II., III., IV., V., VI., VII., and VIII. in schedule C of Ordinance No. 13 of 1889 there shall be substituted the following forms respectively:—

Form II.

(Section 22.)

Register of Labourers.

Number : —.
 Name : —.
 Approximate age : —.
 Sex : —.
 Race and caste : —.
 Village : —.
 Taluk : —.
 District : —.
 Father's name : —.
 Mother's name : —.
 Height, viz., tall, short, or medium : —.
 Colour, viz., dark, light, or medium : —.
 Distinguishing marks (if any) : —.
 General appearance : —.
 Kanga's name : —.
 Date of engagement : —.
 Estate where last employed : —.
 Whether employed permanently, or on contract work, or on both : —.
 Number of Ragama certificate (if any) : —.

Form III.

(Section 24.)

Discharge Ticket.

In pursuance of section 24 of Ordinance No. 13 of 1889, this is to certify that the labourer whose name and description are appended has been duly discharged from my service.

(1) This labourer—

- (a) Was one of the coolies on my original register.*
- (b) Came to me with a certificate from the Cooly Depôt.*
- (c) Came to me on discharge ticket from — Estate in the — District.*
- (d) Came to me on notice from — Estate in the — District.*
- (e) Came to me with a certificate from the Police Magistrate at —.*

(2) The reason for his discharge is —.

* Strike out the lines which do not apply.

Description of Labourer.

Number on Estate Registrar : ——.

Name : ——.

Approximate age : ——.

Sex : ——.

Race and caste : ——.

Village : ——.

Taluk : ——.

District : ——.

Father's name : ——.

Mother's name : ——.

Name of kangani : ——.

Height, viz., tall, short, or medium : ——.

Colour, viz., dark, light, or medium : ——.

Distinguishing marks (if any) : ——.

General appearance : ——.

Date of engagement : ——.

Estate where last employed : ——.

Whether employed permanently, or on contract work, or both : ——.

Number of Ragama certificate (if any) : ——.

_____,
Superintendent._____
Estate, _____ District.

Date : _____, 19—.

Form IV.

(Section 24 (3).)

Memorandum with regard to Labourer leaving on Notice.

Estate, _____ District.

Memorandum that the labourer whose name and description are appended hereto left this estate on the _____ day of _____, 19—, and that a formal Discharge Ticket will be issued to his employer on application.

Date : _____, 19—.

(Signed) _____,

Superintendent.

Name and Description of Labourer.

Name : _____ Father's name : _____.
Sex : _____ General appearance : _____.

Note.—In the case of a gang of labourers leaving on notice add the following particulars :—

Name of kangani of gang : _____.

Form V.

(Section 25.)

No. of Certificate : _____.

Ragama Certificate.

I hereby certify that the labourer whose name and description are appended was despatched from the Depôt at Ragama to _____ Estate on the _____ day of _____, 19—.

Name and Description of Labourer.

Number on Estate Register : ——.

Name : ——.

Approximate age : ——.

Sex : ——.

Race and caste : ——.

Village : ——.

Taluk : ——.

District : ——.

Father's name : ——.

Mother's name : ——.

Name of kangani : ——.

Height, viz., tall, short or medium : ——.

Colour, viz., dark, light or medium : ——.

Distinguishing marks (if any) : ——.

General appearance : ——.

Date of engagement : ——.

Estate where last employed : ——.

Whether employed permanently, or on contract work, or both : ——.

Number of Ragama certificate (if any) : ——.

(Signed) _____,

Superintendent.

Date : _____, 19—.

Form VI.
(Section 26.)

Certificate of Police Magistrate.

Police Court of —.

I hereby certify, in terms of section 26 of Ordinance No. 13 of 1889, that I am satisfied that the labourer, whose name and description are appended, has not been employed on any estate in Ceylon during the thirty-six months immediately preceding the date of this certificate (or has left — estate on reasonable grounds).

Number on Estate Register : —.
 Name of labourer : —.
 Approximate age : —.
 Sex : —.
 Race and caste : —.
 Village : —.
 Taluk : —.
 District : —.
 Father's name : —.
 Mother's name : —.
 Name of kangani : —.
 Height, viz., tall, short, or medium : —.
 Colour, viz., dark, light, or medium : —.
 Distinguishing marks (if any) : —.
 General appearance : —.
 Date of engagement : —.
 Estate where last employed : —.
 Whether employed permanently, or on contract work, or both : —.
 Number of Ragama certificate (if any) : —.

(Signed) —,
Police Magistrate.

Date : —, 19—.

Form VII.
(Section 25 (4).)

No. of Certificate : —.

I hereby certify that the labourer whose name and description are appended was despatched from the Depot at — to — Estate on the — day of —, 19—.

Name and Description of Labourer.

Number on Estate Register : —.
 Name : —.
 Approximate age : —.
 Sex : —.
 Race and caste : —.
 Village : —.
 Taluk : —.
 District : —.
 Father's name : —.
 Mother's name : —.
 Name of kangani : —.
 Height, viz., tall, short, or medium : —.
 Colour, viz., dark, light, or medium : —.
 Distinguishing marks (if any) : —.
 General appearance : —.
 Date of engagement : —.
 Estate where last employed : —.
 Whether employed permanently, or on contract work, or both : —.
 Number of certificate (if any) : —.

(Signed) —,
Superintendent.

Date : —, 19—.

Form VIII.
(Section 25 (4).)

Ceylon Government Railway.

Date:	Cooly Railway Permit. Talaimannar Pier.	No.:
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4 (1) Any person who after the commencement of this Ordinance—

- (a) Issues or causes or permits to be issued a *tundu*; or
- (b) Accepts or agrees to accept any *tundu* or any obligation arising thereunder or intended to be imposed thereby; or
- (c) Gives or enters into any undertaking, express or implied, with regard to any *tundu*;

to or in respect of any labourers as defined in section 3 of Ordinance No. 13 of 1889, shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding twenty thousand rupees, or to imprisonment of either description for any period not exceeding two years, or to both.

(2) For the purposes of this section the expression "*tundu*" means the document commonly called a *tundu*, and in use, at the time of the commencement of this Ordinance, under the provisions of Ordinance No. 13 of 1889; it also includes any document, whatever its form may be, whereby the objects attained by a *tundu* at the time of the commencement of this Ordinance are sought to be attained after such commencement.

5 Sections 11, 12, 14, 21, 23, and 24 of Ordinance No. 11 of 1865 and section 4 A of Ordinance No. 13 of 1889 are hereby repealed.

Penalties for issuing, &c., *tundus*.

Repeals.

By His Excellency's command,

Colonial Secretary's Office,
Colombo, October 17, 1921.

GRAEME THOMSON,
Colonial Secretary.

Statement of Objects and Reasons.

UNDER Ordinance No. 11 of 1865 and Ordinance No. 13 of 1889 provision is made for criminal proceedings being taken against employers and employed in respect of certain breaches of contracts of hire and service. It is thought that a penal sanction should no longer be attached to such breaches, but that aggrieved parties should be left to their ordinary civil remedies. This Bill in section 5 makes the necessary provision for changing the law in this respect.

The attention of Government has been called to the evils which arise from the issue of the *tundu* when labourers desire to leave the service of one employer and seek that of another. Experience has shown that the *tundu* can be used for the purpose of levying something very like blackmail, and also of hampering the liberty of movement of the labourer. The majority of those who are engaged in the handling of employed labour are strongly opposed to the continuance of the *tundu* system; and the Government of India has recently expressed the view that it would be well if it were stopped. In order to attain this object, it is necessary that any attempts at evasion should be severely penalized, and that reason will account for the severity of the penalty proposed to be imposed by section 4 of the Bill.

Attorney-General's Chambers,
Colombo, October 18, 1921.

H. C. GOLLAN,
Attorney-General.