



THE  
CEYLON GOVERNMENT  
GAZETTE

EXTRAORDINARY.

---

No. 8,038 - SATURDAY, MARCH 17, 1934.

---

*Published by Authority.*

PART II.—LEGAL.

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

DRAFT ORDINANCES.

MINUTE.

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

**An Ordinance to amend the Tea (Control of Export) Ordinance, No. 11 of 1933.** 11 of 1933.

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 Tea (Control of Export) Amendment Ordinance, No. of 1934. Short title.

2 Sub-section (4) of section twenty-three of the Tea (Control of Export) Ordinance, No. 11 of 1933, (hereinafter referred to as "the principal Ordinance"), is hereby amended by the addition of the following paragraph at the end of that sub-section as paragraph (e) :  
Amendment of section 23 (4) of Ordinance No. 11 of 1933.

"(e) Commencing with the second period of assessment it shall be lawful for the Controller to deduct from the standard crop of an estate or small holding for any period of assessment the amount of any excess included in the exportable maximum of that estate or small holding for any preceding period of assessment."

Amendment of section 27 of the principal Ordinance.

3 The following sub-section shall be inserted immediately after sub-section (3) of section twenty-seven of the principal Ordinance and shall have effect as sub-section (4) of that section :

“(4) Every export licence issued after the first day of April, nineteen hundred and thirty-four, shall have endorsed thereon the date of issue of that export licence and shall be valid for a period of three months only reckoned from the date of issue”.

Amendment of section 36 of the principal Ordinance.

4 The following sub-section shall be inserted immediately after sub-section (2) of section thirty-six of the principal Ordinance and shall have effect as sub-section (3) of that section :

“(3) Upon conviction of any person for a breach of the provisions of section 30 (1) or of any rules prescribing the special cases and the extent to which tea may be planted in any land in the Island which was not planted with tea on the date declared under that section, it shall be lawful for a Police Magistrate, in addition to any fine or other penalty which he may impose, to order that all tea planted in contravention of such provisions or rules should be eradicated and destroyed by or at the instance of the person so convicted within a period to be fixed in the order ; and, upon the failure of the person so convicted to comply with the terms of such order within the period so fixed, the Police Magistrate may cause the tea referred to in that order to be eradicated and destroyed at the expense of such person. The cost of so eradicating and destroying the tea may be recovered from that person as though a fine for a like amount had been imposed upon him by the Magistrate notwithstanding the fact that the total amount of such cost may be in excess of the amount which such Magistrate may impose as a fine in the exercise of his ordinary powers or jurisdiction.”

*Objects and Reasons.*

The object of this Bill is to amend the Tea (Control of Export) Ordinance, No. 11 of 1933, so as to meet certain difficulties which have arisen or may arise in the administration of that Ordinance.

2. *Clause 2.* Coupons were issued during the period of assessment now closing in circumstances of great difficulty. Assessments, appeals, and verification of the accuracy of declarations have been proceeding throughout and concurrently with the issue of coupons.

In addition to these difficulties, it was essential to the industry that an announcement of the probable figure of reduction should be made as soon as possible. Such a figure was calculated on provisional figures that were available at that time, and a reserve to meet further assessments, successful appeals, &c., was held back. In order to make such adjustments as may be necessary to correct an over-issue of coupons to individuals or to supplement the reserve referred to, Clause 2 empowers the Controller to deduct from the standard crop of an estate or smallholding for any period of assessment the amount of any excess included in the exportable maximum of that estate or smallholding for any preceding period of assessment.

3. *Clause 3* provides that a tea export licence shall cease to be valid after the expiry of a period of three months reckoned from the date of issue. It is considered that this limitation of the validity of tea export licences will secure the early export and clearance of the amount of tea covered by such licences.

4. *Clause 4* enables a Magistrate to order the eradication of tea which has been planted in contravention of the provisions of section 30. If the defaulter fails to comply with such order within the period specified therein, the Magistrate is empowered to have the tea plants eradicated at the expense of the defaulter and the cost of eradication is recovered as a fine. The powers sought to be conferred on a Magistrate by this Clause are considered necessary to secure effective compliance with those provisions of the Ordinance which restrict the planting of new areas in tea.

D. S. SENANAYAKE,  
Minister for Agriculture and Lands.

The Ministry of Agriculture and Lands,  
Colombo, March 16, 1934.

## MINUTE.

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

[No. 502/33 (S.B.)]

An Ordinance to amend the Income Tax Ordinance, 1932.

No. 2 of 1932.

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 Income Tax Amendment Ordinance, No. of 1934.

Short title.

2 Section two of the Income Tax Ordinance, 1932, (hereinafter referred to as "the principal Ordinance"), is hereby amended as follows :—

Amendment of section 2 of Ordinance No. 2 of 1932.

(1) in the definition of "Charitable purpose", by the substitution of the word "means" for the word "includes";

(2) in the definition of "Executor",

(a) by the substitution of the word "means" for the word "includes"; and,

(b) by the addition of the words "and includes a trustee acting under a trust created by the last will of the author of the trust." at the end of that definition;

(3) in the definition of "' Profits ' or ' income '",

(a) by the substitution of the words "the nett profits" for the words "the profits"; and,

(b) by the addition of the words "and ascertained on the basis of gross income less expenditure incurred, and not on the basis of receipts less payments." at the end of that definition;

(4) in the definition of "Trustee", by the substitution of the words "person, but does not include an executor" for the word "person" at the end thereof; and,

(5) in the definition of "Written-down value",

(a) by the substitution of the words "plant, machinery, or fixtures", for the words "plant and machinery" wherever those words occur therein; and,

(b) by the omission of the word "its" where that word occurs before the word "purchase".

3 Section four of the principal Ordinance is hereby amended as follows :—

Amendment of section 4 of the principal Ordinance.

(1) In sub-section (3), by the addition of the words "or of proving any matter communicated to the Commissioner of Stamps or to the Head of a Department of Government under paragraphs (a) and (b) of sub-section (4)." at the end thereof;

(2) by the repeal of sub-section (4) and by the substitution of the following sub-section therefor :—

"(4) Notwithstanding anything contained in this section, the Commissioner or any officer of the Income Tax Department authorised by the Commissioner in that behalf, may communicate any matter which comes to his knowledge—

(a) to the Commissioner of Stamps, or

(b) to the Head of a Department of the Government of Ceylon, provided that the Commissioner has reason to believe that the person to whom the communication relates has defrauded the Government in some matter relating to that Department, or

(c) to the Auditor-General or to any officer of the Department of the Auditor-General authorised by him to receive any such communication, or

(d) to the Income Tax authority of any part of His Majesty's Dominions or of any place under His Majesty's protection or suzerainty to such an extent as the Commissioner may deem necessary to enable the correct relief to be given from income tax in that part or place in respect of the payment of income tax in Ceylon."

(3) by the addition thereto of the following sub-section as sub-section (5) :—

"(5) The Auditor-General and every officer of his department to whom any information is communicated under this section shall be deemed to be a person employed in carrying out the provisions of this Ordinance for the purposes of sub-section (2)."

Amendment of section 6 of the principal Ordinance.

4 Paragraph (b) of sub-section (2) of section six of the principal Ordinance is hereby amended as follows:—

(1) by the substitution of the words "land and improvements or for such place of residence" for the words "land and improvements" where those words occur for the second time in that paragraph; and,

(2) by the substitution of the words "value is being determined" for the words "value is being decided" where those words occur at the end of the second sentence in that paragraph.

Amendment of section 7 of the principal Ordinance.

5 Sub-section (1) of section seven of the principal Ordinance is hereby amended as follows:—

(1) by the repeal of paragraph (c) thereof and by the substitution of the following paragraph therefor:—

"(c) any income derived from property (excluding any income derived from a trade or business other than an agricultural undertaking) which is held under trust or other legal obligation for religious or charitable purposes in so far as such income is applied (other than by way of investment), during the year of assessment in which it arises or during the period of twelve months next succeeding such year, to religious or charitable purposes within the Island;" and,

(2) in paragraph (k), by the substitution of the words "retiring gratuity (other than a sum received in commutation of pension)" for the word "retiring" in that paragraph.

Amendment of section 9 of the principal Ordinance.

6 Section nine of the principal Ordinance is hereby amended as follows:—

(1) In sub-section (1), by the substitution of the words and figures "sub-sections (2) and (3)," for the word and figure "sub-section (2),";

(2) in paragraph (ii) of the proviso to paragraph (b) of sub-section (1), by the substitution of the words "plant, machinery or fixtures were" for the words "plant and machinery was"; and,

(3) by the addition of the following sub-section as sub-section (3) thereof:—

"(3) Income arising from interest shall be the full amount of interest falling due whether paid or not, without any deductions for outgoings or expenses. Where, however, any person proves to the satisfaction of the Commissioner that any interest is unpaid, the Commissioner may direct that payment of the tax charged in respect thereof be deferred for such time as he may deem necessary, and where it is proved that any interest cannot be recovered, any assessment which includes such interest shall, notwithstanding the provisions of section 75, be reduced by the amount of interest included which has been shown to be irrecoverable."

Amendment of section 10 of the principal Ordinance.

7 Paragraph (c) of section ten of the principal Ordinance is hereby repealed and the following paragraph is substituted therefor:—

"(c) any expenditure of a capital nature or any loss of capital;"

Amendment of section 11 of the principal Ordinance.

8 Section eleven of the principal Ordinance is hereby amended as follows:—

(1) in sub-section (5), by the substitution of the words "shall be reduced" for the words "shall, on application being made by him to the Commissioner within twelve months after the end of that year of assessment, be reduced"; and,

(2) by the addition at the end thereof of the following sub-section as sub-section (11):—

"(11) Notwithstanding the provisions of section 75, a claim made under this section to an adjustment of any assessment by reference to the profits or income for any period other than the year preceding the year of assessment shall be entertained if it is made within the period of twelve months next succeeding that year of assessment."

Amendment of section 13 of the principal Ordinance.

9 Section thirteen of the principal Ordinance is hereby amended in paragraph (a) of sub-section (1) thereof:—

(1) by the substitution of the words "interest not allowable under section 9 (1) (e), annuity, ground rent, or royalty:" for the words "interest, annuity, ground rent, or royalty not allowable under section 9 (1) (e):"; and,

(2) by the addition, at the end of the proviso, of the following paragraph as paragraph (iv) :—

“ (iv) where for any period of assessment any of the said sums has not been and will not be paid, no deduction shall be allowed ; ”

10 Section fifteen of the principal Ordinance is hereby amended as follows :—

Amendment of section 15 of the principal Ordinance.

(1) by the substitution for all the words from the word “ Where ” to the word “ taxable : ” of the following words :—

“ Where the assessable income for any year of assessment of an individual resident in Ceylon does not exceed two thousand four hundred rupees, such income shall not be taxable :

Provided that, where an individual is resident in Ceylon for only a part of a year of assessment, his income shall be taxable if it exceeds a sum which bears the same proportion to two thousand four hundred rupees as the number of days during which he is so resident bears to the number of days in that year of assessment : ” ; and,

(2) by the substitution of the words “ Provided further ” for the word “ Provided ” in the proviso of that section.

11 Paragraph (e) of sub-section (1) of section sixteen of the principal Ordinance is hereby amended by the substitution of the words “ who lived with and was ” for the words “ living with him and ”.

Amendment of section 16 of the principal Ordinance.

12 Sub-section (1) of section eighteen of the principal Ordinance is hereby repealed and the following sub-section is substituted therefor :—

Amendment of section 18 of the principal Ordinance.

“ (1) Where the assessable income for any year of assessment of an individual not resident in Ceylon consists solely of earned income within the meaning of section 16 and does not exceed one thousand rupees, such income shall not be taxable.”

13 Section twenty of the principal Ordinance is hereby amended as follows :—

Amendment of section 20 of the principal Ordinance.

(1) In sub-section (1), by the repeal of the proviso thereof and by the substitution therefor of the following proviso :—

“ Provided that where an individual is chargeable as a resident for a part only of any year of assessment, the said sums of Rs. 6,000 and Rs. 30,000 shall be reduced in the proportion which the number of days during which he is so chargeable bears to the number of days in that year of assessment.” ;

(2) in sub-section (5), by the addition at the end of that sub-section of the following proviso :—

“ Provided that where an individual is chargeable as a non-resident for a part only of any year of assessment, the said sum of Rs. 50,000 shall be reduced in the proportion which the number of days during which he is so chargeable bears to the number of days in that year of assessment.” ;

(3) by re-numbering sub-sections (8) and (9) as sub-sections (9) and (10) respectively ; and,

(4) by the insertion between sub-section (7) and re-numbered sub-section (9) of the following sub-section as new sub-section (8) :—

“ (8) Where for any year of assessment the taxable income of an individual exceeds, in consequence of the inclusion in his statutory income of a sum received in commutation of pension, the sum to which it would amount if no such commutation were included, the excess shall be chargeable, notwithstanding anything contained in any other sub-section, at the rate ascertained by dividing the tax payable by him for the preceding year of assessment by the amount of his assessable income for such preceding year :

Provided that where any such individual was resident in such preceding year of assessment and no tax was payable by him for that year of assessment, the said excess shall not be chargeable :

Provided further that where any such individual was non-resident in such preceding year of assessment, the rate at which the said excess is chargeable shall be determined by the Commissioner.”

14 Section twenty-two of the principal Ordinance is hereby amended as follows :—

Amendment of section 22 of the principal Ordinance.

(1) By re-numbering sub-section (2) as sub-section (4) ;

(2) in sub-section (1),—

(a) by substituting a full-stop for the colon immediately after the word “accordingly” at the end of the first paragraph thereof; and,

(b) by substituting the words and figures—

“(2) Where tax is assessed separately as a result of a notice under sub-section (1),” for the words “Provided that” at the commencement of the proviso thereof; and,

(3) by the insertion before re-numbered sub-section (4) of the following new sub-section as sub-section (3):—

“(3) Wherever one spouse is resident and the other is non-resident and notice under sub-section (1) is given by the resident spouse, the resident spouse may in such notice elect that the provisions of sub-section (2) be not applied, and in that event, the income from Ceylon of the non-resident spouse shall, notwithstanding the provisions of sub-section (2), be deemed to be the income of the resident spouse and shall be assessed accordingly, and no allowance which may be claimed under section 16 (1) (c) and (d) shall be granted.”

Amendment of section 23 of the principal Ordinance.

15 Section twenty-three of the principal Ordinance is hereby amended as follows:—

(1) In sub-section (1), by the repeal of the proviso thereof and by the substitution of the following proviso therefor:—

“Provided that where any persons not exceeding ten in number are entitled as beneficiaries to any part or parts of such income, such part or parts may be deducted from the amount on which the receiver or trustee is assessable and may be treated for the purposes of this Ordinance as the income of the beneficiaries. Where there are more than ten such beneficiaries, the Commissioner may direct that the part or parts of the income to which they are entitled shall be treated for the purposes of this Ordinance either

(a) as the income of the receiver or trustee as the case may be, or

(b) as the income of the beneficiaries.”;

(2) by re-numbering sub-section (2) as sub-section (3); and,

(3) by inserting between sub-section (1) and re-numbered sub-section (3) the following sub-section as sub-section (2):—

“(2) Where the Commissioner directs in accordance with sub-section (1) that the part or parts of any income be treated for the purposes of this Ordinance as the income of a receiver or trustee, such receiver or trustee shall be entitled to deduct tax from any income that he distributes to the beneficiaries, and the provisions of section 43 shall apply, as far as may be, to all sums so distributed in the same way as they apply to dividends paid by a company.”

Amendment of section 33 of the principal Ordinance.

16 Section thirty-three of the principal Ordinance is hereby amended as follows:—

(1) by the repeal of sub-sections (2), (3) and (4) and by the substitution therefor of the following sub-sections respectively:—

“(2) An individual who arrives in Ceylon and who is in Ceylon for a period or periods amounting in the aggregate to more than six months during the year commencing from the date of his arrival shall, if he is in Ceylon at the end of that year, be deemed resident throughout that year; but if he is not in Ceylon at the end of that year, he shall be deemed resident from the date of his arrival to the date of his last departure during that year, and, subject to the provisions of the following sub-sections, non-resident from the date of such last departure to the end of that year.

(3) An individual who has been deemed resident throughout a period of twenty-four consecutive months or who would have been deemed to be so resident if this Ordinance had always been in force, shall be deemed to be resident until such time as he is continuously absent from Ceylon for an unbroken period of twelve months. When such person is so absent, he shall be deemed to be non-resident as from the date on which such absence commenced.

(4) Where an individual is deemed resident for any period in accordance with the provisions of any of the foregoing sub-sections, and at the end of such period is absent from Ceylon for less than three months, such period of absence shall for all the purposes of this section be treated as if it had been spent by him in Ceylon.” and,

(2) by the addition of the following new sub-section as sub-section (5) at the end thereof:—

“ (5) Where an individual dies during any year of assessment, and, in respect of the period from the commencement of such year to the date of his death, the Commissioner is satisfied—

- (a) that, although he is deemed to be resident under the foregoing sub-sections, he would, but for his death, have been deemed to be non-resident, or
- (b) that, although he is not deemed to be resident under the foregoing sub-sections, he would, but for his death, have been deemed to be resident, and
- (c) that there is chargeable for the said period a greater amount of tax than would have been so chargeable if he had lived,

the Commissioner may direct that such deceased individual shall be deemed to have been resident or non-resident, as the case may be, for the purpose of granting such relief as the circumstances of the case may require.”

17 Sub-section (3) of section thirty-six of the principal Ordinance is hereby amended by the addition of the following words at the end thereof :—

“ Where import duty levied on an *ad valorem* basis under Ordinance No. 17 of 1869 has been paid in Ceylon on such goods or produce, the sum to be deducted as the cost of such goods or produce on arrival in Ceylon shall not, for the purpose of computing the profits arising in Ceylon, be greater than the value on which such import duty has been so paid.”

Amendment of section 36 of the principal Ordinance.

18 Section thirty-eight of the principal Ordinance is hereby amended as follows :—

(1) by the substitution of the following words for the word “Ceylon :” where that word occurs immediately before the proviso thereof :—

“Ceylon within the meaning of section 5 :” ; and,

(2) by the substitution of the following words for all the words commencing with the word “Where” and ending with the word “advantage” in the last sentence thereof :—

“Where any such product is not sold in a wholesale market, or is not sold at all, the said person shall be deemed to derive profits from Ceylon within the meaning of section 5 and such profits shall be deemed to be not less than the profits which might have been obtained if such person had sold such product wholesale to the best advantage.”

Amendment of section 38 of the principal Ordinance.

19 Section forty-four of the principal Ordinance is hereby amended as follows :—

(1) In sub-section (1),—

(a) by the substitution of the words “person or partnership” for the word “person” where that word occurs for the second time in that sub-section ;

(b) by the substitution of the words “or annuity,” for the words “annuity, or other annual payment,” in paragraph (b) of that sub-section ;

(c) by the substitution of the words “person, or from a partnership,” for the word “person” where it occurs for the third time in that sub-section ; and,

(d) by the substitution of the words “person or partnership” for the word “person” where that word occurs for the second and third times in paragraph (ii) of the proviso of that sub-section ; and,

(2) in sub-section (2), by the substitution of the words “person or partnership” for the word “person” where that word occurs for the second and third times in that sub-section.

Amendment of section 44 of the principal Ordinance.

20 Section forty-five of the principal Ordinance is hereby amended as follows :—

(1) In sub-section (2), by substituting the words—

“Provided that where any such individual is non-resident for a part only of a year of assessment, the relief shall be calculated by reference to the Ceylon income, total income, and Ceylon tax of that part of such year : and provided further”

for the word “Provided” in the proviso of that sub-section ; and,

(2) in sub-section (4), by the substitution of the words “interest, annuity, ground rent, or royalty” for the word “interest” where it occurs in paragraph (a) and in head (i) of paragraph (b) of that sub-section.

Amendment of section 45 of the principal Ordinance.

Amendment of section 46 of the principal Ordinance.

21 Section forty-six of the principal Ordinance is hereby amended as follows :—

(1) In sub-section (1), by the addition of the following proviso at the end thereof :—

“ Provided that the total relief granted under this sub-section added to that granted under section 45 (1) shall not exceed one-half of the Ceylon tax after deducting therefrom any relief given under section 45 (2).” ; and,

(2) in sub-section (2), by substituting the words “ interest, annuity, ground rent or royalty,” for the word “ interest,” in paragraph (b) thereof.

Substitution of new section for section 47 of the principal Ordinance.

22 Section forty-seven of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Applicability of provisions relating to particular sources of profits or income.

“ 47. Where any provision of this Ordinance expressly relates to any particular source of profits or income mentioned in sub-section (1) of section 6, such provision shall not apply to the determination of any profits or income which is assessable and has been assessed as falling within any other source mentioned in that sub-section.”

Substitution of a new section for section 59 of the principal Ordinance.

23 Section fifty-nine of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

“ 59. Any act or thing required by or under this Ordinance to be done by any person shall, if such person is an incapacitated or non-resident person, be deemed to be required to be done by the trustee of such incapacitated person or by the agent of such non-resident person, as the case may be.”

Amendment of section 63 of the principal Ordinance.

24 Sub-section (1) of section sixty-three of the principal Ordinance is hereby amended by the repeal of the proviso thereof.

Amendment of section 69 of the principal Ordinance.

25 Section sixty-nine of the principal Ordinance is hereby amended as follows :—

(1) In sub-section (1), by the insertion of the words “ the amount of ” between the words “ aggrieved by ” and the words “ an assessment ” ; and,

(2) by the repeal of sub-section (4) and by the substitution of the following sub-section therefor :—

“ (4) Every appellant shall attend before the Commissioner at the time and place fixed for the hearing of the appeal. The appellant may attend the hearing of the appeal in person or by an authorized representative. The Commissioner may, if he thinks fit, from time to time adjourn the hearing of an appeal for such time and place as he may fix for the purpose. In any case in which an authorized representative attends on behalf of the appellant, the Commissioner may adjourn the hearing of the appeal and may, if he considers that the personal attendance of the appellant is necessary for the determination of the appeal, require that the appellant shall attend in person at the time and place fixed for the adjourned hearing of the appeal. If the appellant or his authorized representative fails to attend at the time and place fixed for the hearing or any adjourned hearing of the appeal, or if the appellant fails to attend in person when required so to attend by the Commissioner, the Commissioner may dismiss the appeal.

Provided that if the appellant shall within a reasonable time after the dismissal of an appeal satisfy the Commissioner that he or his representative was prevented from due attendance at the hearing or at any adjourned hearing of such appeal by absence from Ceylon, sickness, or other unavoidable cause, the Commissioner may vacate the order of dismissal and fix a time and place for the hearing of the appeal.”

Amendment of section 71 of the principal Ordinance.

26 Section seventy-one of the principal Ordinance is hereby amended by the addition thereto of the following sub-section as sub-section (5) :

“ (5) The right of appeal to the Board under this section shall not be available to an appellant whose appeal to the Commissioner has been dismissed for default of attendance by him or by his authorized representative under section 69 (4).”



27 Sub-section (8) of section seventy-three of the principal Ordinance is hereby amended by the substitution for the words "or make such orders thereon as to the members present may appear fit" of the following words:—

"or may remit the case to the Commissioner with the opinion of the Board thereon. Where a case is so remitted by the Board, the Commissioner shall revise the assessment as the opinion of the Board may require"

Amendment of section 73 of the principal Ordinance.

28 The following section shall be added immediately after section seventy-five of the principal Ordinance and shall have effect as section 75A of Chapter XI of that Ordinance:

"75A. Where under this Ordinance any matter is left to the discretion of the Commissioner, his decision on any such matter shall be final and conclusive, unless the Board of Review or the Supreme Court, as the case may be, is of opinion either that such decision was not made in good faith or that there was no evidence on which such a decision could reasonably have been made."

Insertion of new section 75A in the principal Ordinance.

Right to revise decision of Commissioner.

29 Section seventy-six of the principal Ordinance is hereby amended as follows:—

(1) by re-numbering sub-sections (3), (4), (5), (6), (7), (8) and (9) as sub-sections (4), (5), (6), (7), (8), (9) and (10) respectively;

(2) by the insertion between sub-section (2) and re-numbered sub-section (4) of the following sub-section as sub-section (3):—

"(3) Where the Commissioner is of opinion either that the tax or any part thereof held over under sub-section (2) is likely to become irrecoverable, or that the appellant is unreasonably delaying the prosecution of his appeal, he may cancel any order made under that sub-section and make such fresh order as the case may appear to him to require.";

(3) In re-numbered sub-section (4),—

- (a) by the insertion of the words "or upon any order made by the Commissioner," between the word and figures "Chapter XI," and the word "any"; and,
- (b) by the omission of the words "containing particulars of the assessment as determined and" in that sub-section;

(4) In re-numbered sub-section (6),—

- (a) by the substitution of the words "not later than twenty-one days after" for the words "within twenty-one days of";
- (b) by the substitution of the words "twelve equal monthly instalments" for the words "twelve equal instalments" where those words occur in that sub-section; and
- (c) by the substitution of the following proviso for the proviso of that sub-section:—

"Provided that—

- (a) where the notice of assessment is not issued in time to permit a deduction to be made in September, all amounts which, if the said notice had been issued in time, would have been deducted in any month prior to that in which the first deduction is made, shall be added to such first deduction and shall be recovered therewith; and,
- (b) where the Commissioner is of opinion that the application of the method of payment provided for in this sub-section is likely to endanger the ultimate recovery of the tax or any part thereof, he may, notwithstanding such election, by notice in writing addressed to the said person, direct that the tax or any part thereof be paid on or before a date specified in such notice. Any tax not paid as required by such notice shall be deemed to be in default.";

(5) In re-numbered sub-section (8),—

- (a) by the substitution of the words "whose remuneration" for the word "whom" where that word occurs for the first time in that sub-section; and,

Amendment of section 76 of the principal Ordinance.

(b) by the substitution of the figure “(6)” for the figure “(5)” and by the substitution of the figure “(7)” for the figure “(6)” wherever the latter figure occurs in that sub-section;

(6) In re-numbered sub-section (9), by the substitution of the figures “(8)”, “(7)” and “(5)” respectively for the figures “(7)”, “(6)” and “(4)”; and,

(7) In re-numbered sub-section (10),—

(a) by the substitution of the words “from the remuneration of any person” for the words “from remuneration”;

(b) by the substitution of the words and figure—  
“sub-section (7), shall on request made by such person”

for the words and figure—

“sub-section (6) shall at the time of payment of such remuneration”; and,

(c) by the substitution of the words “issue to him” for the words “give to the employee”.

Amendment of section 77 of the principal Ordinance.

30 Section seventy-seven of the principal Ordinance is hereby amended by the substitution of the figures “76 (5)” for the figures “76 (4)”.

Amendment of section 79 of the principal Ordinance.

31 Sub-section (2) of section seventy-nine of the principal Ordinance is hereby amended as follows:

(1) In paragraph (a), by the substitution of the words “Fiscal, or Deputy-Fiscal,” for the word “Fiscal,” and by the substitution of the words “to cause the tax to be recovered” for the words “to recover the tax”; and,

(2) in paragraph (b),—

(a) by the substitution of the words—

“The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and any property so seized”

for the words—

“any property seized under this section”;

(b) by the substitution of the words “Fiscal, or Deputy Fiscal,” for the word “Fiscal,”; and,

(c) by the substitution of the words “said property” for the word “goods”.

Amendment of section 80 of the principal Ordinance.

32 Sub-section (2) of section eighty of the principal Ordinance is hereby amended by the substitution of the words—

“The Commissioner shall, notwithstanding the provisions of section 75, consider”

for the words “The Commissioner shall consider” at the commencement of the second sentence of that sub-section.

Amendment of section 82 of the principal Ordinance.

33 Section eighty-two of the principal Ordinance is hereby amended by the substitution of the words “such person” for the words “the defaulter” wherever the latter words occur in that section.

Amendment of section 85 of the principal Ordinance.

34 Paragraph (c) of sub-section (1) of section eighty-five of the principal Ordinance is hereby amended by the substitution of the figures “76 (10),” for the figures “76 (9),”.

Application of Ordinance.

35 The provisions of this Ordinance shall apply to all assessments which have not at the date of the commencement thereof become final and conclusive within the meaning of section 75 of the principal Ordinance.

Reprinting of principal Ordinance.

36 The principal Ordinance may be reprinted from time to time by order of the Governor, together with all amendments, additions, alterations or modifications which may have been or may be made thereto by written law; and any copy of that Ordinance so reprinted shall be deemed for all purposes to be a correct copy of the principal Ordinance as so amended, added to, altered, or modified, at the date of such reprinting, provided that it purports to have been printed by the Government Printer by order of the Governor.

*Objects and Reasons.*

1. The experience gained in two years' practical working of the Income Tax Ordinance, 1932, has shown that, while the Ordinance is generally satisfactory, certain amendments are desirable in the interests of clarity and smooth administration.

2. Clause 2 clarifies certain definitions.

3. Clause 3 amends the secrecy provisions by allowing the Commissioner to disclose facts in his possession to another Department where he has reason to believe that the person concerned is defrauding that Department. In addition, it removes a minor difficulty which arises from the amalgamation of the Estate Duty, Stamps, and Income Tax Departments.

4. Clause 5 deals with charities, and provides that profits from businesses, and income unexpended for two years, shall be liable to tax.

5. Clause 6 clarifies and transfers to its logical place the existing section 47.

6. Clause 8 provides that a person who is entitled to relief under any provision of section 11 may claim that relief at any time within the year following that for which the relief is due.

7. Clause 9 provides that no deduction shall be allowed for interest payable which is never actually paid.

8. Clause 10 has the effect of charging with tax an individual whose annual income exceeds the exemption limit but who is resident in Ceylon for a part only of any year of assessment.

9. Clause 12 increases the limit of the special exemption of the earned income of non-resident individuals, and extends the exemption to such individuals whether they come to Ceylon or not.

10. Sub-clauses (1) and (2) of Clause 13 amend the drafting of the provision which deals with the proportionate basis of assessment in the case of an individual resident for a part only of any year of assessment, and provide a similar proportionate basis for non-resident individuals.

11. Sub-clause (4) of Clause 13 deals with an anomaly which arises in the assessment of any sum received in commutation of pension, which the present Ordinance makes chargeable at an unduly high rate by adding it to a normal year's income. Any tax which is charged upon any such sum should, in equity, be assessed at the rate which would be applicable to the pension which it replaces. In practice, it will be difficult to ascertain this rate. The amendment accordingly makes a sum received in commutation of pension chargeable at the rate to which the income of the individual concerned was liable in the year preceding that in which the commutation occurs.

12. Clause 14 amends the provisions which relate to the assessment of the incomes of husbands and wives. At present, the Ordinance makes liable to tax the "foreign" income of a wife who is non-resident and who may never come to Ceylon. This is thought to be unduly onerous, and produces a difficult situation in a case where the wife has a large income. The amendment permits a husband whose wife is non-resident to elect to be assessed as if he were a single man; *i.e.*, his wife's income is excluded on the one hand, and on the other he is given no allowance for wife or children.

13. Clause 15 permits the Commissioner to restrict the application of the provisions whereby the income of a trust is assessable in the hands of the beneficiaries to trusts in which the beneficiaries are not more than ten in number. The object of this amendment is to prevent the application of the provisions in question to voluntary associations and quasi-public bodies to which it was never intended that these provisions should apply.

14. Clause 16 revises the definition of residence. The existing definition depends largely on "intention," a criterion which in practice is found to be unsatisfactory. The amendment makes residence or non-residence depend on the length of actual periods of presence in or absence from the Island, subject to relief where in the case of a death the amendment would result in increasing the tax.

15. Clause 17 provides that where a trader has declared the value of imported goods for the purposes of *ad valorem* Customs duty, he shall not be entitled to debit a higher value for Income Tax purposes.

16. Clause 22 inserts, in place of the old section 47 which is transferred by clause 6 to section 9, a provision which ensures that sections dealing with one source of income shall not apply to other sources. This provision is necessitated by differences in structure between the United Kingdom Act and the Ceylon Ordinance.

17. Clause 24 deletes the provision which enacts that every assessment must be signed by an Assistant Commissioner. The retention of that provision would mean that when the exemption limit is lowered in April, 1935, further Assistant Commissioners, who would otherwise be unnecessary, would have to be appointed.

18. Clauses 25 and 26 deal with the case where an appellant neglects to attend the hearing of his appeal by the Commissioner.

19. Clause 27 assimilates the powers of the Board of Review in deciding an appeal to those granted to the Supreme Court under Section 74 (5).

20. Clause 28 deals with discretionary powers vested in the Commissioner by various provisions of the Ordinance. Several sections provide that certain special matters are to be determined by the Commissioner, and it is not certain whether his decisions on these matters are or are not appealable. The amendment provides that these decisions may be upset if they are not made in good faith or if they are not supported by the evidence.

21. Clause 29 is inserted to prevent losses of revenue which occur when payment of tax is deferred pending the decision of an appeal, or where an employee elects to have his tax deducted by his employer from his remuneration.

22. Clause 31 deals with certain minor difficulties which have arisen in connexion with the recovery of tax by the Fiscal.

23. Clause 36 provides that those amendments introduced in this Bill which subsequently become law may be incorporated in the principal Ordinance when that Ordinance is reprinted.

The Treasury,  
Colombo, March 14, 1934.

W. W. WOODS,  
Financial Secretary.