



THE
CEYLON GOVERNMENT
GAZETTE

No. 8,041 — WEDNESDAY, MARCH 28, 1934.

Published by Authority.

PART II.—LEGAL.

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

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PRINTED AT THE CEYLON GOVERNMENT PRESS, COLOMBO.

DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to provide for the payment of compensation to workmen who are injured in the course of their employment.

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Compensation payable in certain cases.

**An Ordinance to provide for the payment of compensation
to workmen who are injured in the course of their
employment.**

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

CHAPTER I.

Preliminary.

Short title and
commencement.

1 This Ordinance may be cited as the Workmen's Compensation Ordinance, No. of 1934, and shall come into operation on such date as the Governor shall appoint by proclamation in the Gazette.

Interpretation.

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

“adult” and “minor” mean respectively a person who is not and a person who is under the age of fifteen years ;

“Commissioner” means any person appointed under section 26 to be or to act as a Commissioner or as a Deputy Commissioner for Workmen's Compensation, and includes any person appointed under section 27 to be or to act as an Assistant Commissioner for Workmen's Compensation ;

“compensation” means compensation as provided for in this Ordinance ;

“dependant” means any of the following relatives of a deceased workman, namely :—

(a) a wife, a minor legitimate son, an unmarried legitimate daughter, or a widowed mother ;
and

(b) if wholly or in part dependent on the earnings of the workman at the time of his death, a husband, a parent other than a widowed mother, a minor illegitimate son, an unmarried illegitimate daughter, a daughter legitimate or illegitimate if married and a minor or if widowed, a minor brother, an unmarried or widowed sister, a widowed daughter-in-law, a minor child of a deceased son, or, where no parent of the workman is alive, a paternal grandparent ;

“employer” includes His Majesty in His Government of this Island and any body of persons whether corporate or unincorporate and any managing agent of an employer and the heirs, executors or administrators of a deceased employer, and, when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him ;

“Executive Committee” means the Executive Committee for Labour, Industry and Commerce ;

“local authority” includes a Municipality, a District Council established under “The Local Government Ordinance, No. 11 of 1920,” a Sanitary Board, a Local Board, and a Village Committee ;

“managing agent” means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

“partial disablement” means, where the disablement is of a temporary nature, such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the disablement, and, where the disablement is of a permanent nature, such disablement as reduces his earning capacity in every employment which he was capable of undertaking at that time : provided that every injury specified in Schedule I shall be deemed to result in permanent partial disablement ;

“prescribed” means prescribed by this Ordinance or by any regulation made thereunder ;

“registered medical practitioner” means a person registered as a medical practitioner under the Medical Ordinance, 1927, or under any Ordinance amending that Ordinance ;

“registered ship” means any sea-going ship or boat of any description which is registered or required to be registered in this Island as a British ship ;

“regulation” means a regulation made under section 54 ;

“seaman” means any person forming part of the crew of any registered ship, but does not include the master of any such ship ;

“total disablement” means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement : provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from any combination of injuries specified in Schedule I where the aggregate percentage of the loss of earning capacity, as specified in that Schedule against those injuries, amounts to one hundred per centum ;

“wages” includes the monetary value of any privilege or benefit which is capable of being estimated in money, other than a travelling allowance or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment ;

“workman” means any person who is employed on wages not exceeding three hundred rupees per mensem in any such capacity as is for the time being specified in Schedule II, whether the remuneration is calculated by time or by work done or otherwise, and whether the contract of employment or service was made before or after the commencement of this Ordinance, and whether such contract is expressed or implied, oral or in writing ; but does not include—

- (a) a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer’s trade or business ;
- (b) a person working in the capacity of a member of His Majesty’s naval, military or air forces or of any Defence Force Corps constituted under the Defence Force Ordinance, 1910 ;
- (c) a member of the police force of this Island.

(2) A reference to a workman who has been injured shall, where the workman is dead, include a reference to his dependants or any of them :

(3) The exercise and performance of the powers and duties of any department of the Government or of any local authority shall, for the purposes of this Ordinance, unless a contrary intention appears, be deemed to be the trade or business of that department or local authority.

CHAPTER II.

Liability to pay compensation.

3 If personal injury is caused to a workman by accident arising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of this Ordinance :

Provided that the employer shall not be so liable—

- (a) in respect of any injury which does not result in the total or partial disablement of the workman for a period exceeding seven days ;
- (b) in respect of any injury, not resulting in death, caused by an accident which is directly attributable to—
 - (i) the workman having been at the time thereof under the influence of drink or drugs, or
 - (ii) the wilful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - (iii) the wilful removal or disregard by the workman of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of workmen.

Employer’s liability to pay compensation for injury suffered by a workman.

Employer's liability to pay compensation for disease contracted by workman.

4 (1) If a workman, employed in any employment involving the loading, unloading, handling or transport of wool, hair, bristles, or animal carcases or parts of such carcases, or in any work in connection with animals infected with anthrax, contracts the disease of anthrax, or if a workman, whilst in the service of an employer in whose service he has been employed for a continuous period of not less than six months in any process mentioned in the second column of Schedule III, contracts the occupational disease mentioned in the corresponding entry in the first column of that Schedule opposite the description of the process, the contracting of the disease shall be deemed to be an injury by accident within the meaning of section 3, and, unless the employer proves the contrary, the accident shall be deemed to have arisen out of and in the course of the employment.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not included a period of service under any other employer.

Compensation for other diseases.

5 Save as provided by section 4, no compensation shall be payable to a workman in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

CHAPTER III.

Amount of compensation.

Amount of compensation.

6 (1) Subject to the provisions of this Ordinance, the amount of compensation shall be as follows, namely :—

A. Where death results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the second column thereof, and

(ii) in the case of a minor—two hundred rupees.

B. Where permanent total disablement results from the injury—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—the amount shown against such limits in the third column thereof, and

(ii) in the case of a minor—twelve hundred rupees.

C. Where permanent partial disablement results from the injury—

(i) in the case of an injury specified in Schedule I, such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of the loss of earning capacity caused by that injury, and

(ii) in the case of an injury not specified in Schedule I, such percentage of the compensation payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury :

Provided that in a case where more injuries than one are caused by the same accident, the amount of compensation payable under this head shall be aggregated but not so in any case as to exceed the amount which would have been payable if permanent total disablement had resulted from the injuries.

D. Where temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the sixteenth day after the expiry of a waiting period of seven days from the date of the disablement, and thereafter half-monthly during the disablement or during a period of five years, whichever period is shorter,—

(i) in the case of an adult in receipt of monthly wages falling within limits shown in the first column of Schedule IV—of the sum shown against such limits in the fourth column thereof, and

(ii) in the case of a minor—of one-half of his monthly wages, subject to a maximum of thirty rupees :

Provided that—

(a) there shall be deducted from any lump sum or half-monthly payments to which the workman is entitled the amount of any payment or allowance which the workman has received from the employer by way of compensation during the period of disablement prior to the receipt of such lump sum or of the first half-monthly payment, as the case may be ; and

- (b) no half-monthly payment shall in any case exceed the amount, if any, by which half the amount of the monthly wages of the workman before the accident exceeds half the amount of such wages which he is earning after the accident.

In a case where for the whole or any part of the period of disablement referred to in paragraph (a) of this proviso, a workman occupies any premises belonging to or provided by his employer and pays no rent to him for such occupation, the amount fixed by agreement between the workman and his employer or, failing such agreement, the amount determined by the Commissioner as a fair rental of the premises for the period of such occupation shall be deemed to have been received by the workman as an allowance by way of compensation from his employer for the purpose of computing the deduction to be made from any lump sum or half-monthly payments to which the workman is entitled.

(2) On the ceasing of the disablement before the date on which any half-monthly payment falls due, there shall be payable in respect of that half-month a sum proportionate to the duration of the disablement in that half-month.

7 (1) For the purposes of this Ordinance the monthly wages of a workman shall be calculated as follows, namely:—

Method of calculating wages.

- (a) where the workman has, during a continuous period of not less than twelve months immediately preceding the accident, been in the service of the employer who is liable to pay compensation, the monthly wages of the workman shall be one-twelfth of the total wages which have fallen due for payment to him by the employer in the last twelve months of that period;
- (b) where the whole of the continuous period of service immediately preceding the accident during which the workman was in the service of the employer who is liable to pay the compensation was less than one month, the monthly wages of the workman shall be deemed to be the average monthly amount which, during the twelve months immediately preceding the accident, was being earned by a workman employed on the same work by the same employer, or, if there was no workman so employed, by a workman employed on similar work in the same locality;
- (c) in other cases, the monthly wages shall be thirty times the total wages earned in respect of the last continuous period of service immediately preceding the accident from the employer who is liable to pay compensation, divided by the number of days comprising such period.

(2) For the purposes of this section a period of service shall be deemed to be continuous which has not been interrupted by a period of absence from work exceeding fourteen days.

8 (1) Any half-monthly payment payable under this Ordinance, either under an agreement between the parties or under the order of a Commissioner, may be reviewed by the Commissioner on the application, either of the employer or of the workman accompanied by the certificate of a registered medical practitioner that there has been a change in the condition of the workman, or, subject to regulations made under this Ordinance, on application made without such certificate.

Review of half-monthly payments.

(2) Any half-monthly payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, decreased or ended, or, if the accident is found to have resulted in permanent disablement, be converted to the lump sum to which the workman is entitled less any amount which he has already received by way of half-monthly payments.

9 Any right to receive half-monthly payments may, by agreement between the parties or, if the parties cannot agree and the payments have been continued for not less than six months, on the application of either party to the Commissioner, be redeemed by the payment of a lump sum of such amount as may be agreed to by the parties or determined by the Commissioner, as the case may be.

Commutation of half-monthly payments.

CHAPTER IV.

Payment, distribution and recovery of compensation.

10 (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury, to or for the benefit of his dependants as provided by this Ordinance.

Persons entitled to compensation.

(2) Where a dependant dies before a claim under this Ordinance is made, or, if a claim has been made, before an agreement or award has been arrived at or made, the heirs, executors, or administrators of that deceased dependant shall have no right to payment of compensation, and the amount of compensation shall be calculated and apportioned as if that dependant had died before the workman.

(3) Where there are both total and partial dependants, nothing in this Ordinance shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

Deposit of compensation with Commissioner in certain cases.

11 (1) No payment of compensation in respect of a workman whose injury has resulted in death, and no payment of a lump sum as compensation to a woman or a person under a legal disability, shall be made otherwise than by deposit with the Commissioner, and no such payment made directly by an employer shall be deemed to be a payment of compensation :

Provided that, in the case of a deceased workman, an employer may make to any dependant advances on account of compensation not exceeding an aggregate of one hundred rupees, and so much of such aggregate as does not exceed the compensation payable to that dependant shall be deducted by the Commissioner from such compensation and repaid to the employer.

(2) Any other sum amounting to not less than ten rupees which is payable as compensation may be deposited with the Commissioner on behalf of the person entitled thereto.

(3) The receipt of the Commissioner shall be a sufficient discharge in respect of any compensation deposited with him.

(4) Where any sum has been deposited by an employer as compensation payable in respect of a workman whose injury has resulted in death, and in the opinion of the Commissioner such sum is insufficient, the Commissioner may, by notice in writing stating his reasons, call upon the employer to show cause why he should not make a further deposit within such time as may be stated in the notice.

(5) If the employer fails to show cause to the satisfaction of the Commissioner, the Commissioner may make an award determining the total amount payable, and requiring the employer to deposit the deficiency.

Distribution of compensation.

12 (1) On the deposit of any money under section 11 as compensation in respect of a deceased workman, the Commissioner shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding twenty-five rupees and pay the same to the person by whom such expenses were incurred, and shall, if he thinks necessary, cause notice to be published or to be served on each dependant resident in the Island in such manner as he thinks fit, calling upon the dependants to appear before him on such date as he may fix for determining the distribution of the compensation. If the Commissioner is satisfied, after any inquiry which he may deem necessary, that no dependant exists, he shall repay the balance of the money to the employer by whom it was paid. The Commissioner shall, on application by the employer, furnish a statement showing in detail all disbursements made.

(2) Compensation deposited in respect of a deceased workman shall, subject to any deduction made under sub-section (1), be apportioned among the dependants of the deceased workman or any of them in such proportion as the Commissioner thinks fit, or may, in the discretion of the Commissioner, be allotted to any one dependant.

Payment of compensation.

13 (1) Where any compensation deposited with the Commissioner is payable to any person, the Commissioner shall, if the person to whom the compensation is payable is not a woman or a person under a legal disability, and may in other cases, pay the money to the person entitled thereto.

(2) Where any lump sum deposited with the Commissioner is payable to a woman or a person under a legal disability, such sum may be invested, applied or otherwise dealt with for the benefit of the woman, or of such person during his disability, in such manner as the Commissioner may direct ; and where a half-monthly payment is payable to any person under a legal disability, the Commissioner may, of his own motion or on an application made to him in that behalf, order that the payment be made during the disability to any dependant of the workman or to any other person whom the Commissioner thinks best fitted to provide for the welfare of the workman.

14 (1) Where, on application made to him in this behalf or otherwise, the Commissioner is satisfied that, on account of neglect of children on the part of a parent or on account of the variation of the circumstances of any dependant or for any other sufficient cause, an order of the Commissioner as to the distribution of any sum paid as compensation or as to the manner in which any sum payable to any such dependant is to be invested, applied or otherwise dealt with, ought to be varied, the Commissioner may make such orders for the variation of the former order as he thinks just in the circumstances of the case :

Variation of
Commissioner's
order of
distribution, &c.

Provided that no such order prejudicial to any person shall be made unless such person has been given an opportunity of showing cause why the order should not be made, or shall be made in any case in which it would involve the repayment by a dependant of any sum already paid to him.

(2) Where the Commissioner varies any order under sub-section (1) by reason of the fact that payment of compensation to any person has been obtained by fraud, impersonation or other improper means, any amount so paid to or on behalf of such person may be recovered in the manner hereinafter provided in section 41.

15 (1) If a workman receiving or entitled to receive a half-monthly payment intends to leave the Island in order to reside permanently in another country, he shall give the Commissioner ten days previous notice of such intention ; and the Commissioner shall forthwith inform the other party, who may agree with the workman to continue the payments in the country in which the workman intends to reside. If the parties cannot agree, either party may apply to the Commissioner for the redemption of such half-monthly payments and the Commissioner shall thereupon determine the amount of the lump sum which shall be payable in lieu of such payments.

Workman
leaving Island
to reside
elsewhere.

(2) If a workman receiving or entitled to receive a half-monthly payment leaves the Island for the purpose of residing in another country without giving such notice as is required by the provisions of sub-section (1), he shall, if the Commissioner after inquiry certifies in writing that he has left the Island for such purpose and without giving due notice, cease to be entitled to any benefits under this Ordinance during his absence from the Island ; but he shall, for the purpose of section 6 (1) D, be deemed to have received half-monthly payments during such absence.

(3) A notice or application under this section may be given or made on behalf of any workman by the Commissioner.

16 (1) No proceedings for the recovery of compensation shall be maintainable before a Commissioner unless notice of the accident has been given, in the manner hereinafter provided, as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the claim for compensation with respect to such accident has been instituted within six months of the occurrence of the accident or, in case of death, within six months from the date of death :

Procedure for
recovery of
compensation.
Notice and
claim.

Provided that, where the accident is the contracting of a disease in respect of which the provisions of section 4 are applicable, the accident shall be deemed to have occurred on the first of the days during which the workman was continuously absent from work in consequence of the disablement caused by the disease :

Provided further that the want of or any defect or irregularity in a notice shall not be a bar to the maintenance of proceedings—

- (a) if the claim is made in respect of the death of a workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working under the control of the employer or of any person employed by him, and the workman died on such premises or at such place, or on any premises belonging to the employer, or died without having left the vicinity of the premises or place where the accident occurred, or
- (b) if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or irregularity, or that such want, defect or irregularity was occasioned by mistake, absence from the Island, or other reasonable cause.

(2) The Commissioner may admit and decide any claim to compensation in any case notwithstanding that the notice required by sub-section (1) has not been given, or that the claim has not been instituted in due time as required by that sub-section, if he is satisfied that the failure so to give notice or to institute a claim, as the case may be, was due to sufficient cause.

Form of notice.

17 A notice under section 16 may be given either in writing or orally to the employer (or, if there is more than one employer, to one of such employers), or to any foreman or other official under whose supervision the workman is employed, or to any person designated for the purpose by the employer, and shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which the accident occurred.

Notice book.

18 (1) The Executive Committee may by regulation require any specified class of employers to maintain at their premises at which workmen are employed a notice book in the prescribed form which shall be readily accessible at all reasonable times to any workman who is injured while employed on the premises and to any person acting *bona fide* on his behalf.

(2) Any employer who acts in contravention of any regulation made by the Executive Committee under sub-section (1) shall be guilty of an offence and shall, on conviction after summary trial before a Police Magistrate, be liable to a fine not exceeding fifty rupees.

Service of notice.

19 A notice under section 16 may be served by delivering it at, or sending it by registered post addressed to, the residence or any office or place of business of the person on whom it is to be served, or, where a notice book is maintained, by entry in the notice book.

Power of Commissioner to require statements regarding fatal accidents from employers.

20 (1) Where a Commissioner receives information from any source that a workman has died as a result of an accident arising out of and in the course of his employment, he may send by registered post a notice to the workman's employer requiring him to submit, within thirty days of the service of the notice, a statement, in the prescribed form, giving the circumstances attending the death of the workman, and indicating whether, in the opinion of the employer, he is or is not liable to deposit compensation on account of the death.

(2) If the employer is of opinion that he is liable to deposit compensation, he shall make the deposit within thirty days of the service of the notice.

(3) If the employer is of opinion that he is not liable to deposit compensation, he shall in his statement indicate the grounds on which he disclaims liability.

(4) Where the employer has so disclaimed liability, the Commissioner, after such inquiry as he may think fit, may inform any of the dependants of the deceased workman that it is open to the dependants to prefer a claim for compensation, and may give them such other or further information as he may think fit.

Medical examination.

21 (1) Where a workman has given notice of an accident, he shall, if the employer, before the expiry of three days from the time at which service of the notice has been effected, offers to have him examined free of charge by a registered medical practitioner, submit himself for such examination, and any workman who is in receipt of a half-monthly payment under this Ordinance shall, if so required, submit himself for such examination from time to time:

Provided that a workman shall not be required to submit himself for examination by a medical practitioner otherwise than in accordance with regulations made under this Ordinance, or at more frequent intervals than may be prescribed.

(2) If a workman, on being required to do so by the employer under sub-section (1) or by the Commissioner at any time, refuses to submit himself for examination by a registered medical practitioner or in any way obstructs the same, his right to compensation shall be suspended during the continuance of such refusal or obstruction unless, in the case of refusal, he was prevented by any sufficient cause from so submitting himself.

(3) If a workman, before the expiry of the period within which he is liable under sub-section (1) to be required to submit himself for medical examination, voluntarily leaves without having been so examined the vicinity of the place in which he was employed, his right to compensation shall be suspended until he returns and offers himself for such examination.

(4) Where a workman, whose right to compensation has been suspended under sub-section (2) or sub-section (3), dies without having submitted himself for medical examination as required by either of those sub-sections, the Commissioner may, if he thinks fit, direct the payment of compensation to the dependants of the deceased workman.

(5) Where under sub-section (2) or sub-section (3) a right to compensation is suspended, no compensation shall be payable in respect of the period of suspension, and, if the period of suspension commences before the expiry of the waiting period referred to in clause D of sub-section (1) of section 6, the waiting period shall be increased by the period during which the suspension continues.

(6) Where an injured workman has refused to be attended by a registered medical practitioner whose services have been offered to him by the employer free of charge or having accepted such offer has deliberately disregarded the instructions of such medical practitioner, then, if it is thereafter proved that the workman has not been regularly attended by a registered medical practitioner and that such refusal, failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting disablement shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had been regularly attended by a registered medical practitioner, and compensation, if any, shall be payable accordingly.

22 (1) Where any person (hereinafter in this section referred to as the principal) in the course of or for the purpose of his trade or business contracts with any other person (hereinafter in this section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the trade or business of the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from the principal, this Ordinance shall apply as if references to the principal were substituted for references to the employer except that the amount of compensation shall be calculated with reference to the wages of the workman under the employer by whom he is immediately employed.

Right of workman to recover compensation from principal of contractor under whom he is employed.

(2) Where the principal is liable to pay compensation under this section he shall be entitled to be indemnified by the contractor, or any other person from whom the workman could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the workman could have recovered compensation; and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner.

(3) Nothing in this section shall be construed as preventing a workman from recovering compensation from the contractor instead of the principal.

(4) This section shall not apply in any case where the accident occurred elsewhere than on, in or about the premises on which the principal has undertaken or usually undertakes, as the case may be, to execute the work or which are otherwise under his control or management.

23 Where a workman has recovered compensation in respect of any injury caused under circumstances creating a legal liability of some person other than the person by whom the compensation was paid to pay damages in respect thereof, the person by whom the compensation was paid and any person who has been called on to pay an indemnity under section 22 shall be entitled to be indemnified by the person so liable to pay damages as aforesaid.

Remedies of employer against third parties.

24 (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Ordinance to any workman, then in the event of the employer becoming insolvent or making a composition or scheme of arrangement with his creditors or, if the employer is a company, in the event of the company having commenced to be wound up, the rights of the employer against the insurers as respects that liability shall, notwithstanding anything in any law for the time being in force relating to insolvency or the winding up of companies, be transferred to and vest in the workman, and upon any such transfer the insurers shall

Insolvency of employer.

have the same rights and remedies and be subject to the same liabilities as if they were the employer, so, however, that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the insolvency proceedings or liquidation.

(3) Where in any case such as is referred to in sub-section (1) the contract of the employer with the insurers is void or voidable by reason of non-compliance on the part of the employer with any terms or conditions of the contract (other than a stipulation for the payment of premia), the provisions of that sub-section shall apply as if the contract were not void or voidable, and the insurers shall be entitled to prove in the insolvency proceedings or liquidation for the amount paid to the workman :

Provided that the provisions of this sub-section shall not apply in any case in which the workman fails to give notice to the insurers of the happening of the accident and of any resulting disablement as soon as practicable after he becomes aware of the institution of the insolvency or liquidation proceedings and that the employer was insured and with whom.

(4) There shall be deemed to be included among the debts which—

- (a) under section 96 of Ordinance No. 7 of 1853, are to be paid out of the estate and effects of an insolvent before any other debts, and
- (b) under section 11 of the Joint Stock Companies Ordinance, 1893, are, in the distribution of the assets of any company being wound up, to be paid in priority to other debts,

the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say—

- (i) in the first case, the date of the adjudication of insolvency ;
- (ii) in the second case, the date of the commencement of the winding-up of the company ;

and the provisions of the two Ordinances mentioned in this sub-section shall apply accordingly.

(5) Where the compensation is a half-monthly payment, the amount due in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum for which the half-monthly payment could, if redeemable, be redeemed if application were made for that purpose under section 9, and a certificate of the Commissioner as to the amount of such sum shall be conclusive proof thereof.

(6) The provisions of sub-section (4) shall apply in the case of any amount for which an insurer is entitled to prove under sub-section (3), but otherwise those provisions shall not apply where the insolvent or the company being wound up has entered into such a contract with insurers as is referred to in sub-section (1).

(7) This section shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

CHAPTER V.

Masters and seamen.

25. This Ordinance shall apply in the case of workmen who are masters of registered ships or seamen subject to the following modifications, namely :—

(a) The notice of the accident and the claim for compensation may, except where the person injured is the master of the ship, be served on the master of the ship as if he were the employer, but where the accident happened and the disablement commenced on board the ship, it shall not be necessary for any seaman to give any notice of the accident.

(b) In the case of the death of a master or seaman, the claim for compensation shall be made within six months after the news of the death has been received by the claimant or, where the ship has been or is deemed to have been lost with all hands, within eighteen months of the date on which the ship was, or is deemed to have been, so lost.

(c) Where an injured master or seaman is discharged or left behind in any part of His Majesty's dominions or in a foreign country, any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the

Special provisions relating to masters and seamen.

foreign country and transmitted by the person by whom they are taken to the Chief Secretary shall, in any proceedings for enforcing the claim, be admissible in evidence—

- (i) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made ;
- (ii) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness ; and
- (iii) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused ;

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 and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

(d) In the case of the death of a master or seaman leaving no dependants, the Commissioner shall, if the owner of the ship is under any law in force for the time being in this Island relating to merchant shipping liable to pay the expenses of burial of the master or seaman, return to the employer the full amount of the compensation deposited under section 11 without making the deduction referred to in section 12.

(e) No half-monthly payment shall be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in this Island relating to merchant shipping, liable to defray the expenses of maintenance of the injured master or seaman.

CHAPTER VI.

Appointment of Commissioner and other officers.

26 The Governor may, by notification in the Gazette, appoint any person by name or by office to be or to act as Commissioner for Workmen's Compensation for the Island and may, by a like notification, appoint any person by name or by office, to be or to act as Deputy Commissioner for Workmen's Compensation for the Island.

Appointment of
Commissioner
and Deputy.

27 The Governor may, by notification in the Gazette, appoint any person by name or by office to be or to act as an Assistant Commissioner for Workmen's Compensation for such local area as may be specified in the notification.

Appointment of
Assistant
Commissioners.

28 Any officer appointed under section 26 or section 27 shall be deemed to be a public servant within the meaning of the "Ceylon Penal Code".

All officers to
be public
servants.

29 No action shall be maintained against any public servant for anything by him done or omitted to be done in good faith under this Ordinance.

Protection of
public servants.

CHAPTER VII.

Proceedings before Commissioners.

30 If any question arises in any proceeding under this Ordinance as to the liability of any person to any compensation (including any question as to whether a person injured is or is not a workman), or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), or as to the age of any workman or dependant, the question shall, in default or agreement, be settled and determined by a Commissioner.

Disputes to be
settled by
Commissioner.

31 Where any matter is under this Ordinance required to be done by or before a Commissioner, the same shall, subject to the provisions of this Ordinance and to any regulations made thereunder, be done by or before a Commissioner entitled to function as such in the local area in which the accident took place which resulted in the injury :

Each
Commissioner
to deal with
matters relating
to accidents
in his local area.

Provided that, where the workman is the master of a registered ship or a seaman, any such matter may be done by or before a Commissioner entitled to function as such in the local area in which the owner or agent of the ship resides or carries on business.

Commissioner entitled to assistance of exports.

32 Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Ordinance, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry, to assist him in holding the inquiry.

Transfer of case from one Commissioner to another.

33 (1) If a Commissioner is satisfied by any party to any proceedings under this Ordinance pending before him that such matter can be more conveniently dealt with by any other Commissioner, whether in the same province or not, he may, subject to regulations made under this Ordinance, order such matter to be transferred to such other Commissioner either for report or for disposal, and, if he does so, shall forthwith transmit to such other Commissioner all documents relevant for the decision of such matter and, where the matter is transferred for disposal, shall also transmit in the prescribed manner any money remaining in his hands or invested by him for the benefit of any party to the proceedings.

(2) The Commissioner to whom any matter is so transferred shall, subject to regulations made under this Ordinance, inquire thereinto, and, if the matter was transferred for report, return his report thereon or, if the matter was transferred for disposal, continue the proceedings as if they had originally commenced before him.

(3) On receipt of a report from a Commissioner to whom any matter has been transferred for report under sub-section (1), the Commissioner by whom it was referred shall decide the matter referred in conformity with such report.

Form of application to Commissioner for settlement of question in dispute.

34 (1) No application for the settlement of any matter by a Commissioner, other than an application by a dependant or dependants for compensation, shall be made unless and until some question has arisen between the parties in connexion therewith which they have been unable to settle by agreement.

(2) An application to a Commissioner may be made in such form and shall be accompanied by such fee, if any, as may be prescribed, and shall contain, in addition to any particulars which may be prescribed, the following particulars, namely:—

- (a) a concise statement of the circumstances in which the application is made and the relief or order which the applicant claims;
- (b) in the case of a claim for compensation against an employer, the date of service of notice of the accident on the employer and, if such notice has not been served or has not been served in due time, the reason for such omission;
- (c) the names and addresses of the parties; and
- (d) except in the case of an application by dependants for compensation, a concise statement of the matters on which agreement has and of those on which agreement has not been come to.

(3) If the applicant is illiterate or for any other reason is unable to furnish the required information in writing, the application shall, if the applicant so desires, be prepared under the direction of the Commissioner.

Powers of Commissioner.

35 A Commissioner shall have all the powers of a civil court under the Civil Procedure Code, 1889, for the purpose of taking evidence on oath (which such Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the production of documents and material objects; and a Commissioner shall be deemed to be a civil court for all the purposes of section 147 and Chapter XXXIV of the Criminal Procedure Code, 1898.

Appearance of parties.

36 Any appearance, application or act required to be made or done by any person before or to a Commissioner (other than an appearance of a party which is required for the purpose of his examination as a witness) may be made or done on behalf of such person by a legal practitioner or other person authorised in writing by such person.

Method of recording evidence.

37 The Commissioner shall make a brief memorandum of the substance of the evidence of every witness as the examination of the witness proceeds, and such memorandum shall be written and signed by the Commissioner with his own hand and shall form part of the record:

Provided that, if the Commissioner is prevented from making such memorandum, he shall record the reason of his inability to do so and shall cause such memorandum to be made in writing from his dictation and shall sign the same, and such memorandum shall form part of the record:

Provided, further, that the evidence of any medical witness shall be taken down as nearly as may be word for word.

38 All costs incidental to any proceedings before a Commissioner shall, subject to regulations made under this Ordinance, be in the discretion of the Commissioner.

Costs.

39 A Commissioner may, if he thinks fit, submit any question of law for the decision of the Supreme Court, and, if he does so, he shall decide the question in conformity with such decision.

Reservation of points of law for adjudication by Supreme Court.

40 No civil court shall have jurisdiction to settle, decide or deal with any question which is by or under this Ordinance required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Ordinance.

Civil court has no jurisdiction over matters required to be dealt with by Commissioner.

41 The Commissioner may recover any sum or amount due from or payable by any person under this Ordinance whether under an agreement or in terms of an award for the payment of compensation or otherwise, (including any sum payable by way of costs), as if it were a fine imposed by a Police Magistrate upon such person, and for the purposes of such recovery shall have all the powers conferred upon a Police Magistrate for the recovery of fines imposed by him.

Payments and money due to be recovered as fines.

CHAPTER VIII.

Registration of agreements.

42 Where the amount of any lump sum payable as compensation has been settled by agreement, whether by way of redemption of a half-monthly payment or otherwise, or where any compensation has been so settled as being payable to a woman or a person under a legal disability, a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied as to its genuineness, record the memorandum in a register in the prescribed manner :

Registration of agreements.

Provided that—

- (a) no such memorandum shall be recorded before seven days after communication by the Commissioner of notice to the parties concerned ;
- (b) the Commissioner may at any time rectify the register ;
- (c) where it appears to the Commissioner that an agreement as to the payment of a lump sum whether by way of redemption of a half-monthly payment or otherwise, or an agreement as to the amount of compensation payable to a woman or a person under a legal disability ought not to be registered by reason of the inadequacy of the sum or amount, or by reason of the agreement having been obtained by fraud or undue influence or other improper means, he may refuse to record the memorandum of the agreement and may make such order including an order as to any sum already paid under the agreement, as he thinks just in the circumstances.

43 Where a memorandum of any agreement, the registration of which is required by section 42, is not sent to the Commissioner as required by that section, the employer shall be liable to pay the full amount of compensation which he is liable to pay under the provisions of this Ordinance, and notwithstanding anything contained in the proviso to subsection (1) of section 6, shall not, unless the Commissioner otherwise directs, be entitled to deduct more than half of any amount paid to the workman by way of compensation whether under the agreement or otherwise.

Effect of failure to register agreement.

44 The Commissioner may, within six months after the registration of any memorandum of agreement referred to in section 42, order that the registration shall be cancelled if it is proved to his satisfaction that the agreement has been obtained by fraud or undue influence or other improper means, and may make such order, including an order as to any sum or amount already paid under the agreement, and an order for the registration of a new agreement, as he thinks just in the circumstances.

Cancellation of registration.

CHAPTER IX.

Insurance.

45 (1) It shall be lawful for the Commissioner on payment to him of the prescribed fees, to issue a licence to any person to undertake insurance against liabilities to workmen which may be incurred by employers under this Ordinance, if it is shown to his satisfaction, after such inquiry as he may think fit to make, that such person is financially able to undertake such insurance.

Licence to undertake insurance for the purpose of the Ordinance.

(2) Every person who undertakes any such insurance without being licensed for that purpose under sub-section (1), and every employer who insures against any such liability with a person who has not been licensed under that sub-section, shall on conviction after summary trial by a Police Magistrate, be liable for each offence to a fine not exceeding one thousand rupees.

Commissioner empowered to inspect accounts of licensee.

46 Every person licensed under section 45 shall produce for the inspection of the Commissioner at such times as the Commissioner may require, all the accounts of the insurance business which he undertakes for the purposes of this Ordinance, and in default of so doing shall, on conviction after summary trial by a Police Magistrate, be liable for each offence to a fine not exceeding one hundred rupees.

Suspension or cancellation of licensee.

47 (1) It shall be lawful for the Commissioner to suspend or cancel any licence issued to any person under section 45—

- (a) if he is satisfied that such person is no longer financially able to undertake insurance against liabilities which may be incurred by employers under this Ordinance ; or
- (b) if such person has been guilty of fraud, or has made undue delay in the payment or non-payment of claims arising out of such insurance ; or
- (c) if such person has been convicted under section 46.

(2) An order made under sub-section (1) for the suspension or cancellation of a licence shall be subject to an appeal to the Supreme Court in the manner hereinafter provided.

CHAPTER X.

Appeals.

Appeals.

48 (1) An appeal shall lie to the Supreme Court from any of the following orders of a Commissioner, namely :—

- (a) an order awarding as compensation a lump sum whether by way of redemption of a half-monthly payment or otherwise or disallowing a claim in full or in part for a lump sum ;
- (b) an order refusing to allow redemption of a half-monthly payment ;
- (c) an order providing for the distribution of compensation among the dependants of a deceased workman, or disallowing any claim of a person alleging himself to be such dependant ;
- (d) an order allowing or disallowing any claim for the amount of an indemnity under the provisions of sub-section (2) of section 22 ; or
- (e) an order refusing to register a memorandum of agreement or registering the same or providing for the registration of the same subject to conditions ; or
- (f) an order made under section 44 cancelling the registration of a memorandum of agreement ; or
- (g) an order made under section 47 suspending or cancelling a licence issued under section 45.

(2) No person shall appeal against an order mentioned in sub-section (1) unless such person is a party aggrieved by the order against which he appeals.

(3) No appeal shall lie against any order unless a substantial question of law is involved in the appeal.

(4) No appeal shall lie against an order such as is referred to in clauses (a), (c), (d) or (e) of sub-section (1) unless the amount in dispute in the appeal is not less than three hundred rupees.

(5) No appeal by an employer under clause (a) of sub-section (1) shall lie unless the petition of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against.

(6) No appeal shall lie in any case in which the parties have agreed in writing to abide by the decision of the Commissioner or in which the order of the Commissioner gives effect to an agreement so made by the parties.

Time limit for appeals.

49 (1) Every petition of appeal shall bear uncanceled stamps to the value of five rupees and shall be filed in the Supreme Court within a period of thirty days reckoned from the date of the order against which the appeal is preferred.

(2) In computing the time within which an appeal must be preferred the day on which the order appealed against was made shall be included, but all Sundays and public holidays shall be excluded.

50 The Supreme Court shall have power in all appeals under this Chapter to award such costs to be paid by or to the parties thereto as the Court may consider just: provided that in no case shall an order for costs be made against the Commissioner.

Cost of appeal.

51 Subject to the provisions of this Chapter, the provisions of Chapter XXX of the Criminal Procedure Code, 1898, shall apply *mutatis mutandis*, in regard to all matters connected with the hearing and disposal of an appeal preferred under section 48 and, for such purpose, the order of the Commissioner shall be deemed to be the order of a court.

Procedure in appeal.

52 The Supreme Court may hear the Commissioner or any party concerned, in person or by counsel, when any question of law is submitted for decision under section 39.

Hearing of reference on point of law.

53 Where an employer makes an appeal under clause (a) of sub-section (1) of section 48, the Commissioner may, and if so directed by the Supreme Court shall, pending the decision of the appeal, withhold payment of any sum in deposit with him.

Withholding of certain payments pending decision of appeal.

Provided that the Commissioner may distribute, in such manner as he may think fit, out of any sum in deposit with him, a sum not exceeding one-tenth of the sum payable under his order, or fifty rupees, whichever is less, among persons entitled under his order to receive compensation who, in his opinion, are unable to support themselves, and in the event of the appeal being successful such sum shall not be recoverable by the employer.

CHAPTER XI.

Regulations.

54 (1) The Executive Committee may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

Regulations.

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1), the Executive Committee may make regulations for or in respect of all or any of the following matters, namely:—

- (a) for prescribing the intervals at which and the conditions subject to which an application for review may be made under section 8 when not accompanied by a medical certificate;
- (b) for prescribing the intervals at which and the conditions subject to which a workman may be required to submit himself for medical examination under sub-section (1) of section 21;
- (c) for prescribing the procedure to be followed by Commissioners in the disposal of cases under this Ordinance and by the parties in such cases;
- (d) for regulating the transfer of matters and cases from one Commissioner to another and the transfer of money in such cases;
- (e) for prescribing the manner in which money in the hands of a Commissioner may be invested for the benefit of dependants of a deceased workman and for the transfer of money so invested from one Commissioner to another;
- (f) for the representation in proceedings before Commissioners of parties who are minors or are unable to make an appearance;
- (g) for prescribing the form and manner in which memoranda of agreements shall be presented and registered;
- (h) for the withholding by Commissioners, whether whole or in part, of half-monthly payments pending decision on applications for review of the same;
- (i) for regulating the scales of costs which may be allowed in proceedings and appeals under this Ordinance;
- (j) for prescribing and determining the amount of the fees payable in respect of any proceedings before a Commissioner under this Ordinance;
- (k) for the maintenance by Commissioners of registers and records of proceedings before them;
- (l) for prescribing the classes of employers who shall maintain notice-books and the form of such notice-books;
- (m) for prescribing the form of statement to be submitted by employers under section 20;
- (n) all matters stated or required in this Ordinance to be prescribed; and
- (o) generally for all matters incidental to or connected with the matters or subjects specifically mentioned in this sub-section.

Approval of State Council and ratification by Governor.

55 (1) No regulation made under section 54 shall have effect unless it has been approved by the State Council and ratified by the Governor. Notification of such approval and ratification shall be published in the Gazette.

(2) Every regulation shall, upon the publication of the approval and ratification of that regulation as provided for in sub-section (1), be as valid and effectual as if it were herein enacted.

Amendment of Schedules by regulation.

56 (1) The Executive Committee may, by regulation, modify, add to, alter or rescind any Schedule or part of any Schedule and may substitute a new Schedule for any Schedule herein enacted :

Provided that the provisions of Schedules II and III shall not be so modified, added to, altered or rescinded nor shall any new Schedule be substituted for either of those Schedules except after notification published in the Gazette declaring the intention of the Executive Committee so to effect such modification, addition, alteration, rescission or substitution, as the case may be, at a date not earlier than three months from the date of the first publication of such notification in the Gazette.

(2) For the purpose of the application of the provisions of any Schedule at any particular time, a reference in this Ordinance to any Schedule shall be construed as a reference to the provisions of that Schedule which are in force at that time.

CHAPTER XII.

Miscellaneous.

Reports and returns.

57 (1) Where a workman has been injured as a result of an accident occurring on the business premises of his employer or arising out of and in the course of his employment, and has absented himself from work for a period of seven consecutive days next succeeding that on which the accident occurred, his employer shall report the occurrence and the particulars of such accident to the Commissioner in the prescribed form within a period of fourteen days reckoned from the date on which the accident occurred.

(2) Where by any written law for the time being in force notice is required to be given to any person or authority, by or on behalf of an employer, of any accident occurring on his premises which results in death, the person required to give the notice shall, within a period of seven days reckoned from the date of death, send a report to the Commissioner giving the circumstances attending the death.

(3) The Executive Committee may, by notification in the Gazette, extend the provisions of sub-section (2) to any class of premises other than those which come within the scope of that sub-section, and may, by such notification specify the person or persons who shall send the report to the Commissioner.

(4) Every employer shall in every year during the months of January, April, July, and October send to the Commissioner a correct return in the prescribed form specifying—

- (a) the injuries in respect of which compensation has been paid by him or by any insurer with whom he has entered into a contract in respect of any liability under this Ordinance, during the previous quarter ending on the 31st December, 31st March, 30th June, or 30th September, as the case may be ; and
- (b) the amount of such compensation ; and
- (c) such other particulars in respect of such compensation as the Commissioner may require.

(3) Every employer who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and shall, on conviction after summary trial by a Police Magistrate, be liable to a fine not exceeding fifty rupees :

Provided that no employer shall be guilty of a breach of sub-section (1) if he proves that he had no knowledge of the accident within the period of fourteen days mentioned in that sub-section.

Compensation not to be assigned, attached or charged.

58 Save as provided by this Ordinance, no lump or half-monthly payment payable under this Ordinance shall in any way be capable of being assigned or charged or be liable to attachment or pass to any person other than the workman by operation of law, nor shall any claim be set off against the same.

Contracting-out.

59 Any contract or agreement whether made before or after the commencement of this Ordinance, whereby a workman relinquishes any right of compensation from the employer

for personal injury arising out of or in the course of the employment, shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under this Ordinance.

60 Nothing in this Ordinance contained shall be deemed to confer any right to compensation on a workman in respect of any injury if he has instituted in a civil court an action for damages in respect of the injury against the employer or any other person; and no action for damages shall be maintainable by a workman in any court of law in respect of any injury—

Injured workman must elect between common-law and statutory remedy.

- (a) if he has instituted a claim to compensation in respect of the injury before a Commissioner; or
- (b) if he has agreed with his employer to accept compensation in respect of the injury in accordance with the provisions of this Ordinance.

61 (1) Where an arrangement has been made between the Governor and the Government of any other part of His Majesty's dominions whereby sums awarded under the law relating to workmen's compensation in this Island to beneficiaries resident or becoming resident in such other part of His Majesty's dominions and sums awarded under the law relating to workmen's compensation in such other part of His Majesty's dominions to beneficiaries resident or becoming resident in this Island, may, at the request of the authority by which the award is made, be transferred to and administered by a competent authority in such other part of His Majesty's dominions or in this Island, as the case may be, regulations may be made—

Reciprocal arrangements.

- (a) for the transfer, in such manner as may be provided by the arrangement, to the part of His Majesty's dominions with which the arrangement is made of any money in the hands of the Commissioner, applicable for the benefit of any person resident in or about to reside in such part of His Majesty's dominions;
- (b) for the receipt and administration by the Commissioner of any money which under any such arrangement has been transmitted from the part of His Majesty's dominions with which the arrangement has been made as money applicable for the benefit of any person resident or about to reside in this Island.

(2) For the purposes of this section "His Majesty's dominions" includes territories under His Majesty's protection and such, if any, of the territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty as His Majesty may by Order in Council direct shall be treated as if they were included in His Majesty's dominions for the purposes of the Workmen's Compensation (Transfer of Funds) Act, 1927, of the Imperial Parliament.

SCHEDULE I.

(Section 2 (1).)

List of injuries deemed to result in permanent partial disablement.

Injury.	Percentage of loss of earning capacity.
Loss of right arm above or at the elbow ..	70
Loss of left arm above or at the elbow ..	60
Loss of right arm below the elbow ..	60
Loss of leg at or above the knee ..	60
Loss of left arm below the elbow ..	50
Loss of leg below the knee ..	50
Permanent total loss of hearing ..	50
Loss of one eye ..	30
Loss of thumb ..	25
Loss of all toes of one foot ..	20
Loss of one phalanx of thumb ..	10
Loss of index finger ..	10
Loss of great toe ..	10
Loss of any finger other than index finger ..	5

Note.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be the equivalent of the loss of that limb or member.

SCHEDULE II.

(Section 2.)

List of persons who, subject to the provisions of section 2 (1), are included in the definition of "workman" in that section.

The following persons are workmen within the meaning of section 2 (1) and subject to the provisions of that section, that is to say, any person who is—

1. employed, otherwise than in a clerical capacity, in connexion with the operation or maintenance of any mechanically propelled vehicle (including a tramcar) used for the carriage or conveyance of passengers or goods for hire, or for industrial or commercial purposes ; or

2. employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, the making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, for transport, or for sale, of any article or part of an article, and wherein, or within the precincts whereof, on any one day of the preceding twelve months, ten or more persons have been so employed in any such process ; or

3. employed, otherwise than in a clerical capacity, in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months, fifty or more persons have been employed in any process for, or incidental to, the making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, for transport, or for sale, of any article or part of an article or in any kind of work whatsoever incidental to or connected with that process or with the article so made, altered, repaired, ornamented, finished or adapted by that process ; or

4. employed, in any mine, in any mining operation, or in any kind of work, other than clerical work, incidental to or connected with any mining operation or with the mineral obtained, or in any kind of work whatsoever below ground :

Provided that any excavation in which on no day of the preceding twelve months more than twenty-five persons have been employed or explosives have been used, and whose depth from its highest to its lowest point does not exceed twenty feet shall be deemed not to be a mine for the purpose of this clause ; or

5. employed as the master of a registered ship or as a seaman ; or

6. employed for the purpose of loading, unloading, fuelling, victualling, constructing, repairing, demolishing, cleaning or painting any ship of which he is not the master or a member of the crew, or in the handling or transport within the limits as defined under section 5 of "The Master Attendants Ordinance, 1865," of any port in this Island, of goods which have been discharged from or are to be loaded into any vessel ; or

7. employed in the construction, repair or demolition of—

(a) any building which is designed to be or is or has been more than one storey in height above the ground or twenty feet or more from the ground level to the apex of the roof, or

(b) any dam or embankment which is twenty feet or more in height from its lowest to its highest point, or

(c) any road, bridge, or tunnel ; or

(d) any wharf, quay, sea-wall or other marine work including any moorings of ships ; or

8. employed in setting up, repairing, maintaining, or taking down any telegraph or telephone line or post or any overhead electric line or cable or post or standard for the same ; or

9. employed in the construction, repair, inspection, upkeep or demolition of any underground sewer ; or

10. employed in the service of any fire brigade ; or

11. employed in any occupation involving blasting operations ; or

12. employed in the making of any excavation in which on any one day of the preceding twelve months more than twenty-five persons have been employed or explosives have been used, or whose depth from its highest to its lowest point exceeds twenty feet ; or

13. employed in the operation of any ferry boat capable of carrying more than ten persons ; or

14. employed, otherwise than in a clerical capacity, on any estate which is maintained for the purpose of growing cacao, cardamoms, cinchona, coconuts, coffee, rubber or tea and on which on any one day in the preceding twelve months twenty-five or more persons have been so employed ; or

15. employed, otherwise than in a clerical capacity, in the supplying, generating or transforming of electrical energy or in the generating or supplying of gas ; or

16. employed on any boat, launch or vessel which ordinarily plies within the limits of any harbour of this Island or on any canal, river, lake or other inland navigable water and is propelled wholly or in part by steam or other mechanical power or by electricity ; or

17. employed, otherwise than in a clerical capacity, in the Ceylon Government Railway ; or

18. employed, otherwise than in a clerical capacity, in the construction, working, repair or demolition of any aerial ropeway, canal or pipe-line; or
19. employed in the training, keeping or working of elephants or wild animals; or
20. employed as a diver; or
21. employed in producing cinematograph pictures intended for public exhibition or in exhibiting such pictures; or
22. employed in the manufacture or handling of explosives in any premises wherein, or within the precincts whereof, on any one day of the preceding twelve months ten or more persons have been so employed.

Explanation.—In this Schedule, the expression “the preceding twelve months” relates, in any particular case, to the period of twelve months ending with the day on which the accident in that case occurred.

SCHEDULE III.

(Section 4.)

Occupational diseases.

Description of Disease.	Description of Process.
Lead poisoning or its sequelae	Any process involving the use of lead or its preparations or compounds.
Phosphorus poisoning or its sequelae	Any process involving the use of phosphorus or its preparations or compounds.
Mercury poisoning or its sequelae	Any process involving the use of mercury or its preparations or compounds.
Arsenic poisoning or its sequelae	Any process involving the use of arsenic or its preparations or compounds.
Poisoning by benzene and its homologues or the sequelae of such poisoning	Handling benzene or any of its homologues, or any process in the manufacture or involving the use of benzene or any of its homologues.
Chrome ulceration or its sequelae	Any process involving the use of chromic acid or bichromate of ammonium, potassium or sodium, or their preparations.
Compressed air illness or its sequelae	Any process carried on in compressed air.

SCHEDULE IV.

(Section 6.)

Compensation payable in certain cases.

Monthly wages of the workman injured.		Amount of compensation for—		Half Monthly payment as compensation for temporary disablement of adult.
		Death of adult.	Permanent total disablement of adult.	
(1)		(2)	(3)	(4)
More than—	But not more than—			
Rs.	Rs.	Rs.	Rs.	Rs. c.
0 ..	10	500	700	Half his monthly wages
10 ..	15	550	770	5 0
15 ..	18	600	840	6 0
18 ..	21	630	882	7 0
21 ..	24	720	1,008	8 0
24 ..	27	810	1,134	8 50
27 ..	30	900	1,260	9 0
30 ..	35	1,050	1,470	9 50
35 ..	40	1,200	1,680	10 0
40 ..	45	1,350	1,890	11 25
45 ..	50	1,500	2,100	12 50
50 ..	60	1,800	2,520	15 0
60 ..	70	2,100	2,940	17 50
70 ..	80	2,400	3,360	20 0
80 ..	100	3,000	4,200	25 0
100 ..	200	3,500	4,900	30 0
200 ..	—	4,000	5,600	30 0

Objects and Reasons.

The purpose of this Bill is to provide a comprehensive code to enforce and regulate the payment of compensation to workmen who are injured in the course of their employment. The Bill is modelled on the Indian Workmen's Compensation Act, (Act VIII of 1923), as revised and modified by the Amending Acts of 1924, 1925, 1926, 1929 and 1933. The Indian Amending Act of 1933 gives legislative sanction to the recommendations of the Royal Commission on Labour in India, (The Whitley Commission, 1929-1931). Many of the more important provisions of that amending Act will not come into force in India until July 1, 1934. Some of the clauses of this Bill are derived from the Straits Settlements Ordinance, No. 9 of 1932, which is also based on the Indian Workmen's Compensation Act of 1923. This Bill, like the Indian Act, follows the English model in its main principle; but distinctive features have been introduced with the object of providing simple and inexpensive machinery for the purpose of ascertaining definitely the quantum of compensation in individual cases and the parties who are entitled to such compensation.

2. Clause 2 defines "workman" to mean any person who is employed on wages not exceeding three hundred rupees per mensem in any such capacity as is for the time being specified in Schedule II. That Schedule contains twenty-two distinctive classes of employment most of which are hazardous in their nature. No employment has been included in that Schedule which is not included in the Indian Act as revised in accordance with the recommendations of the Whitley Commission. Schedule II can be amended or added to by regulation made by the Executive Committee for Labour, Industry and Commerce but only after three months' previous notice in the Gazette (Clause 56); and no regulation becomes operative until it has been approved by the State Council and ratified by the Governor. Clause 2 (2) provides that a reference to a workman includes a reference to his dependants in a case where the workman dies as a result of the injuries sustained in the course of his employment. The definition of the term 'dependant' received very careful examination during the passage of the Amending Indian Bill of 1933 through the Legislative Assembly and the definition adopted in this Bill is the definition which will become law in India on July 1, 1934.

3. Clause 3 provides that a workman is entitled to compensation if personal injury is caused to him by accident arising out of and in the course of his employment. There are three general categories into which all such accidents may be classified:

- (a) where the workman dies as a result of the accident;
- (b) where the workman is partially disabled;
- (c) where the workman is totally disabled.

If a workman as defined in the Bill dies as a result of an accident his dependants are entitled to compensation according to the scale provided in Schedule IV (Clause 6).

The amount of compensation, except in the case of a minor, varies according to the salary of the deceased workman and provision is made for calculating such salary (Clause 7). If a workman is disabled as the result of an accident, compensation is not paid until after a "waiting period" of seven days; in other words, the disablement must continue for seven consecutive days. Further, the accident should not be attributable to the intoxication of the workman, or to wilful disobedience to orders, or to a disregard of safety measures or devices. The contracting of anthrax or any other occupational disease mentioned in Schedule III is, for the purposes of the Bill, deemed to be an "accident".

4. Schedule I, read with the definitions of "partial disablement" and "total disablement" in Clause 2, provides an arbitrary but nevertheless simple and satisfactory method of ascertaining the extent of the disablement and consequently the amount of compensation. For instance, a workman who as the result of an accident loses the sight of both eyes is deemed to be permanently and totally disabled. It will thus be seen that the essential features of the Bill are really contained in the four Schedules: Schedule I which sets out a list of injuries together with a scale for ascertaining the percentage of loss of earning capacity; Schedule II which enumerates the employments and occupations in which a workman may be injured by accident; Schedule III which states what diseases shall be deemed to be accidents; and Schedule IV which provides a Table for calculating the amount of compensation which is based on the monthly wages of the deceased or injured workman where that workman is

an adult. A minor, for the purposes of the Bill, is a person under the age of fifteen years. Where a minor dies as a result of injuries sustained by accident in the course of his employment or is permanently disabled as the result of any such accident, a lump-sum is payable as compensation.

5. The difference between English legislation and the scheme sought to be introduced in the Bill is that under the English system the amount of the compensation and of the loss of earning capacity has to be proved for each particular case, whereas under the Indian system it is fixed according to scale. This rigid and inelastic nature of the scheme for ascertaining compensation is the principal characteristic of the Indian Workmen's Compensation Act, and the chief advantage derived from its inclusion in this Bill is that it leaves no room for contention and dispute.

6. Chapter IV provides for the payment, distribution and recovery of compensation. Where death occurs, payment has always to be deposited with the Commissioner (Clause 11); and such compensation is apportioned among the dependants by the Commissioner. (Clause 12 (2).) Clause 18 enables the Executive Committee to compel classes of employers specified by regulation to keep a "notice book" in the prescribed form so that a workman who is injured can conveniently give due notice of the accident to his employer by making an appropriate entry in the book. The principle of the "notice book" was introduced by the English Workman's Compensation Act of 1923 and has been adopted in India with effect from January 1, 1934. Clause 21 enables an employer at his expense to get his own medical practitioner to examine an injured workman and provides the necessary penalties in a case where a workman refuses to submit himself to such examination. Clause 22 deals with the right of a workman to recover compensation from the principal of a contractor under whom he is employed, and Clause 24 safeguards the interests of a workman in the event of the insolvency of his employer by giving priority to any amount due to that workman in respect of compensation payable under the Bill when it becomes law.

7. Chapter V makes special provision to meet the case of workmen who are employed as masters or seamen. It has been considered advisable to restrict this part of the Bill to masters and seamen of ships required to be registered in Ceylon as British ships.

8. Chapter VI provides for the appointment by the Governor of a Commissioner, a Deputy-Commissioner and such Assistant Commissioners as may be required for the purposes of administration. Chapter VIII deals with proceedings before Commissioners and provides the necessary procedure for the investigation and determination of claims to compensation. As in India, the powers of the Commissioner are, in the majority of cases, restricted by the fixed and definite provisions of the Schedules which are designed to avoid contentions and disputes in ascertaining the right to and the amount of compensation payable according to law.

9. Chapter VIII provides for the registration of agreements whereby employers undertake to commute the liability to make half-monthly payments by the payment of a lump-sum as compensation. Special provision has been made for the avoidance of agreements made fraudulently or by the exercise of undue influence and for the protection of the interests of women and persons under legal disability.

10. Special provision is made in Chapter IX to permit only such insurance companies as are licensed to undertake insurance against liabilities to pay compensation to workmen who are killed or injured in the course of their employment. As it is anticipated that most employers will seek to cover the risk of liability to pay compensation to their workmen by adequate insurance, it is essential, in the interests of the workmen, that only approved and reliable insurance companies should be permitted to undertake such business.

11. Chapter X provides for an appeal to the Supreme Court against the order of a Commissioner in specified cases. An employer is not allowed to prefer an appeal against an order awarding a lump-sum by way of redemption of a half-monthly payment or otherwise unless the petition of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against. No appeal is allowed against an order made by the Commissioner in a case where the parties have consented in writing to abide by his decision. The proviso to Clause 53 is intended to cover particular cases of hardship and is derived from analogous provisions in the Straits Settlements Ordinance. The Commissioner is empowered, pending the decision of an appeal, to distribute a sum not exceeding Rs. 50 out of the money

in deposit with him, to persons entitled to compensation under the order appealed against where he is satisfied that they are unable to support themselves through poverty. This amount is not refunded if the employer succeeds in his appeal.

12. Chapter XI provides for the making of Regulations by the Executive Committee of Labour, Industry and Commerce. Most of the necessary administrative machinery will have to be enacted in the form of subsidiary legislation and the safeguard has been inserted of submitting all regulations for approval by the State Council and for ratification by the Governor *before* they become law.

13. Chapter XII deals with miscellaneous matters. Clause 58 provides that compensation shall not be assigned or attached. Clause 59 makes null and void any agreement whereby an employer "contracts-out" with the object of removing or reducing his legal liability to pay compensation.

14. It is not intended that the Bill should deprive any workman of his ordinary common-law remedy and every workman is therefore at liberty to elect to proceed with his common-law action for damages or to claim compensation under the statutory provisions introduced by this Bill; but a workman cannot simultaneously prefer a statutory claim and maintain a common-law action. (Clause 60.) Clause 61 provides for the enforcement of reciprocal arrangements with other parts of the British Empire.

15. Clause 2 mentions the Crown in the definition of "employer" and, in paragraph 17 of Schedule II, the Ceylon Government Railway is specially mentioned in the list of scheduled employments. The provisions of the Bill will therefore apply equally to Government as well as to other workmen.

PERI SUNDARAM,
Minister for Labour, Industry and Commerce.
The Ministry of Labour, Industry and Commerce,
Colombo, March 20, 1934.

MINUTE.

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

An Ordinance to amend the Petroleum Ordinance, 1887.

BE it 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 Petroleum (Amendment) Ordinance, No. of 193 .

Amendment of section 3 of the principal Ordinance.

2 Section 3 of The Petroleum Ordinance, 1887, (hereinafter referred to as "the principal Ordinance") is amended by substituting the following for the definition of "Dangerous Petroleum" therein, viz. :—

"Dangerous Petroleum" means petroleum of which the flashing point is below the temperature for the time being fixed by notification in the Government Gazette by the Governor with the advice of the Executive Committee of Home Affairs.

Amendment of section 14 of the principal Ordinance.

3 Section 14 of the principal Ordinance is amended by substituting the words "the temperature for the time being fixed by notification in the Government Gazette by the Governor with the advice of the Executive Committee of Home Affairs" for the words "one hundred and seventy five degrees of Fahrenheit's thermometer" occurring in the last two lines of the proviso.

Objects and Reasons.

The purpose of this Bill is to substitute for the existing rigid description of "dangerous petroleum," and "fuel oil" a definition which would permit of the flashing point in each case being fixed and altered by administrative action. At present a change in these flashing points can be effected only by legislative action.

D. B. JAYATILAKA,
Minister for Home Affairs.

The Ministry of Home Affairs,
Colombo, March 16, 1934.

DISTRICT AND MINOR COURTS NOTICE.

NOTICE is hereby given that, three months hence, the valueless records of the Court of Requests and Police Court, Hatton, will be destroyed subject to the provisions of section 6 of the Ordinance No. 12 of 1894.

Any person interested in any record may personally, by proctor, or by duly authenticated petition, claim, upon good cause shown, that such record may not be destroyed.

R. M. G. MONY PENNY,
Commissioner and Police Magistrate.

Hatton, March 23, 1934.

NOTICES OF INSOLVENCY.

In the District Court of Colombo.

No. 4,728. In the matter of the insolvency of Banduge Nadoris de Silva of 34th lane, Wellawatta.

WHEREAS the above-named Banduge Nadoris de Silva has filed a declaration of insolvency, and a petition for the sequestration of his estate has been filed by B. P. Perera of Panadura, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said Banduge Nadoris de Silva insolvent accordingly; and that two public sittings of the court, to wit, on May 1, 1934, and on May 15, 1934, will take place for the said insolvent to surrender and conform to, agreeably to the provisions of the said Ordinance, and for the taking of the other steps set forth in the said Ordinance, of which creditors are hereby required to take notice.

By order of court, K. RATNASINGHAM,
March 23, 1934. Secretary.

In the District Court of Kandy.

No. 2,041. In the matter of the insolvency of John Charles Britto of Ampitiya in Kandy.

WHEREAS John Charles Britto of Ampitiya, Kandy, has filed a declaration of insolvency, and a petition for the sequestration of his estate has also been filed by Anthony Edward Neydorff of Kandy, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said John Charles Britto insolvent accordingly; and that two public sittings of the court, to wit, on May 4, 1934, and on May 18, 1934, will take place for the said insolvent to surrender and conform to, agreeably to the provisions of the said Ordinance, and for the taking of the other steps set forth in the said Ordinance, of which creditors are hereby required to take notice.

By order of court, GERALD E. DE ALWIS,
Kandy, March 23, 1934. Secretary.

In the District Court of Nuwara Eliya holden at Hatton.

No. 26. In the matter of the insolvency of S. D. Wijenaik of Lindula.

WHEREAS the above-named S. D. Wijenaik of Lindula has filed a declaration of insolvency, and a petition for the sequestration of his estate has been filed by J. A. de Silva of Lindula, under the Ordinance No. 7 of 1853: Notice is hereby given that the said court has adjudged the said S. D. Wijenaik insolvent accordingly; and that two public sittings of the court, to wit, on April 24, 1934, and on May 8, 1934, will take place for the said insolvent to surrender and conform to, agreeably to the provisions of the said Ordinance, and for the taking of the other steps set forth in the said Ordinance, of which creditors are hereby required to take notice.

By order of court, T. A. WIJETUNGE,
March 15, 1934. Acting Secretary.

In the District Court of Galle.

No. 676. In the matter of the insolvency of Hewawarawitige Hinni Appuhamy of Denepitiya.

NOTICE is hereby given that examination of the above-named insolvent adjourned at the sitting of this court on May 24, 1934.

By order of court, L. B. CASPERSZ,
March 20, 1934. Secretary.

In the District Court of Kurunegala.

No. 114 I. In the matter of Sena Mohammadu Sahul Hamidu and Sena Muna Kana Seiyadu Mohammadu, both of Esplanade road, Kurunegala, carrying on business under the name, style, and firm of S. M. K. S. Mohammadu Sahul Hamidu of Esplanade road, Kurunegala, insolvents.

WHEREAS a petition has been filed by Mohamadu Sodakatulla of Bazaar street, Kurunegala, under Ordinance No. 7 of 1853, praying that Sena Muna Mohammadu Sahul Hamidu and Sena Muna Kana Seiyadu Mohammadu, both of Esplanade road, Kurunegala, be adjudged insolvents and their estate placed under sequestration; and whereas notice of such adjudication was served on the said Sena Muna Mohammadu Sahul Hamidu and Sena Muna Kana Seiyadu Mohammadu, both of Esplanade road, Kurunegala, and no cause having been shown against the validity of such adjudication: Notice is hereby given that the said court has adjudged them insolvents accordingly; and that two public sittings of the court, to wit, on May 4, 1934, and May 18, 1934, will take place for the insolvents to surrender and conform to, agreeably to the provisions of the said Ordinance and for the taking of the other steps set forth in the said Ordinance, of which creditors are hereby required to take notice.

By order of court, T. J. M. FERNANDO,
March 21, 1934. Secretary.

NOTICES OF FISCALS' SALES.

Western Province.

In the District Court of Colombo.

C. L. M. Abdol Majeed of No. 60, Davidson road, in Colombo Plaintiff

No. 52,681. Vs.

Sego Mohamed Allie of Wilson street Colombo Defendant.

NOTICE is hereby given that on Friday, April 27, 1934, at 4 p.m., will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of the sum of Rs. 933.22, viz. —

All that house and ground formerly marked assessment No. 38, now No. 93, Belmont street, in New Bazaar, within the Municipality and in the District of Colombo, Western Province; bounded on the north by the property of Mawantantrige Ana Maria Rodrigo, on the east by the property of Sinne Lebbe Ahamado Lebbe, on the south by the high road leading to the canal, and on the west by the property of Hettige W. Soysa; containing in extent 7 20/100 square perches.

Fiscal's Office,
Colombo, March 24, 1934.

C. H. W. KANANGARA,
Deputy Fiscal.

In the District Court of Kalutara.

Don Gabriel Weerakoon, presently of Panapitiya. Plaintiff.

No. 16,715. Vs.

(1) Delkandura Aratchige Luisa de Silva Gunaratne Hamine and (2) Asuramuni Adirian de Silva Amara-sekera, both of Etagama Defendants.

NOTICE is hereby given that on Tuesday, May 1, 1934, at 4.30 in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said defendants in the following property for the recovery of Rs. 300, with interest thereon at 9 per cent. per annum from August 15, 1929, till payment in full, and costs Rs. 329.92, less a sum of Rs. 375 recovered by plaintiff, viz. —

Undivided 19/40 shares of the land called low land *alias* Gold Mary appearing in plan No. 69 (excluding the planter's share of the plantations thereon), situated at Nagoda, in Kalutara badde in Kalutara totamunc, Kalutara District, Western Province; and bounded on the north by low land belonging to Eradis de Silva Notary and high land belonging to Joseph Renda Mahatmaya, east by low land belonging to Bone Pasea Fernando and Joseph Fernando, south by land appearing in plan No. 50,809 in the name of Bastian Fernando, and west by low land belonging to Eradis de Silva Notary; containing in extent about 10 acres.

Deputy Fiscal's Office,
Kalutara, March 21, 1934.

H. SAMERESINGHA,
Deputy Fiscal.

Southern Province.

In the District Court of Galle.

M. M. L. Meyappa Chettiar of India by his attorney
Muna Letchimanan Chettiar of Kaluwella in
Galle Plaintiff.

No. 31,600. Vs.

(1) C. A. Cicilia de Silva and (2) A. G. A. Gunasekera,
both of Wanduramba Defendants.

NOTICE is hereby given that on Monday, April 30, 1934, commencing at 1 o'clock in the afternoon, will be sold by public auction at the respective premises the right, title, and interest of the said defendants in the following property, viz. :—

1. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Indigasduwa, situate at Lelwala in Gangaboda pattu of the District of Galle, Southern Province; and bounded on the north by T. P. 151,940, east by T. P. 221,928 and Crown land, south and west by Crown land; containing in extent 2 acres 1 rood and 14 perches, with the life interest of the 1st defendant to the whole land.

2. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Balapuwegodella, situate at Wanduramba in Gangaboda pattu aforesaid; and bounded on the north by land claimed by natives and T. P's. 235,241, 235,240, 235,239, east by land claimed by natives, south by land claimed by natives, west by T. P. 226,356; containing in extent 1 acre 3 roods and 16 perches, with the life interest of the 1st defendant to the whole land.

3. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Ciyulegoda, situate at Wanduramba aforesaid; and bounded on the north by land claimed by natives, east by land claimed by natives and Crown land, south by reservation along the road, west by reservation along the road and land claimed by natives; containing in extent 1 acre 2 roods and 31 perches, with the life interest of the 1st defendant to the whole land.

4. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Agatuduwe-watta, situate at Wanduramba aforesaid; and bounded on the north by Alutwatteadderakumbura, east by Kajjugahawatta, south by Pitiduwakumbura, and west by Ratneharakanda; containing in extent 1 acre, with the life interest of the 1st defendant to the whole land.

5. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Balapuwegodella, situate at Wanduramba aforesaid; and bounded on the north and west by land claimed by natives, east by T. P. 235,240, south by T. P. 235,252; containing in extent 22 perches, with the life interest of the 1st defendant to the whole land.

6. All the soil, plantations, and everything standing on an undivided $\frac{1}{2}$ of $\frac{8}{9}$ part or share of the land called Haputantrigewatta, situate at Wanduramba aforesaid; and bounded on the north by the field, east by Dolamulla, south by Ilagotudoressekanda, and west by Godakumburewala; containing in extent 4 acres, with the life interest of the 1st defendant to the whole land.

7. All those an undivided $\frac{1}{2}$ of $\frac{1}{2}$ part of the soil, plantation, and everything standing thereon of the land called Hathhauludumlekumbura, situate at Lelwala in Gangaboda pattu aforesaid; and bounded on the north by Crown land, east by Tanahenepahalakabella, south by Indigasduwa and Wapulahena, and west by Wapulahena; containing in extent 4 acres 1 rood and 24 perches, with the life interest of the 1st defendant to the whole land.

8. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Udumullewattagoda, situate at Wanduramba aforesaid; and bounded on the north by lot 1 in P. P. 11,405, east by T. P. 298,452, south by reservation for a road, and west by Udumullealutwatta claimed by L. Uparis; containing in extent 1 acre and 10 perches, with the life interest of the 1st defendant to the whole land.

9. An undivided $\frac{1}{2}$ part of the soil, plantations, and everything standing on the land called Udumullewattagoda and Alutwatta Udumulle-goda, situate at Wanduramba aforesaid; and bounded on the north by T. P's. 298,452 and 297,242, Kanuderiyankumbura claimed by G. Amarasingha and others, Henadiragewatta claimed by N. Babun Appu and others, east by Henadiragewatta claimed by N. Babunappu and others, reservation along the path and Millagahawatta claimed by Tantrige Appu, south by T. P. 300,569, 338,831, 338,832, lot 4465 in P. P. 10,067, Polkanattewatta claimed by N. Adirian and reservation along the footpath and Singarakkarawatta, and west by T. P's. 217,697, 299,576, 327,313, and 32,724, reservation along the footpath; containing in extent 10 acres 2 roods and 7 perches, with the life interest of the 1st defendant to the whole land.

Writ amount Rs. 2,019, with interest thereon at the rate of 9 per cent. per annum from November 15, 1932, till payment in full, and costs Rs. 73-92.

Fiscal's Office,
Galle, March 21, 1934.

J. R. WEERASEKERA,
Deputy Fiscal.

In the District Court of Matara.

Don Andris Tirimadura of Wattagama Plaintiff.

No. 7,070. 25. Vs.

Inattappuli Muhandirange Davit Sinno of Ambalan-
tota Defendant.

NOTICE is hereby given that on Saturday, April 28, 1934, at 10 o'clock in the forenoon, will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of Rs. 459-25, with legal interest on Rs. 391-30 from February 10, 1932, till payment in full, and poundage :—

At Ambalantota.

The western $\frac{1}{2}$ portion of the 17 cubits masonry upstairs tiled building belonging to the defendant, and claimed under D. C., Tangalla, case No. 3,559, and the ground covered by the said portion of the building standing on the land called Ambagalawatta, in extent about 1 rood, situate at Ambalantota in Magam pattu of the Hambantota District, Southern Province; and bounded on the north by high road; east by the land belonging to C. L. de Silva; south by land belonging to Crown; and west by land belonging to Crown. Valuation, Rs. 2,500.

C. J. OORLOFF,
Deputy Fiscal's Office, Additional Deputy Fiscal.
Hambantota, March 21, 1934.

Northern Province.

In the District Court of Jaffna.

Arumugam Ponnampalam of Chunnakam Plaintiff.

No. 809. Vs.

Soosanam, widow of Vathiampillai Mariampillai of
Siruvilan Defendant.

NOTICE is hereby given that on Wednesday, April 25, 1934, at 10 o'clock in the forenoon, will be sold by public auction at the respective spots the right, title, and interest of the said defendant in the following property for the recovery of Rs. 413-70, with interest on Rs. 250 at the rate of 12 per cent. per annum from June 18, 1931 (costs reserved), poundage and charges, viz. :—

1. An undivided $\frac{2}{5}$ th share with the whole of the house and share of well, way, and water-course on the western boundary of a piece of land, situated at Siruvilan in Pandaiteruppu parish, Valigamam West division of the Jaffna District, Northern Province, called Kockkaddian; containing in extent $3\frac{1}{2}$ lachams varagu culture, with house, palmyras and spontaneous plantations; and bounded on the east and south by Loother Anthoneypillai, north by southern procession street of Santhanasimathavin Kovil, and west by the property belonging to Santhanasimatha Kovil.

2. An undivided $\frac{4}{5}$ th share of a piece of land, situated at ditto called Kockkan; containing in extent 10 lachams varagu culture and 16 kulies, with palmyras; and bounded on the east by Soosaipillai Anthoneypillai, north by Uthinam, wife of Swampillai, west by the under-mentioned 3rd land, and south by lane.

3. An undivided $\frac{9}{10}$ th share of a piece of land, situated at ditto called Kockkan; containing in extent 9 lachams varagu culture and 4 kulies, with palmyras; and bounded on the east by the above-mentioned 2nd land, north by Uthinam, wife of Swampillai, west and south by lane.

4. An undivided $\frac{9}{10}$ th share of a piece of land, situated at Periavilan ditto called Kaddakkarampulam; containing in extent 5 lachams varagu culture; and bounded on the east by Kanther Visuvar, north by Mariapillai, wife of Marucline, west by Uthinam, wife of Phillippu, and south by Gnanapoo, wife of Soosaipillai.

The lands are said to be under mortgage.

Fiscal's Office,
Jaffna, March 22, 1934.

S. TURAIYAPPAH,
Deputy Fiscal.

I, Charles Harrison-Jones, Fiscal for the North Western Province, do hereby appoint S. M. Marikkar to be Marshal for the divisions of Dambadeni Udukaha North and West and Mairawati korales of Dambadeni hatpattu, Giratalana, Baladora, and Angomu korales of Dewamedhi hatpattu, Karandapattu, Meddeketiya, Yatikala, Yagampattu, Kinyama, Katugampola Meda pattu east and west, Katugampola North and South and Pitigal Korales of Katugampola hatpattu in the Kurunegala District, under the provisions of the Fiscal's Ordinance, No. 4 of 1927, from March 21 to 24, 1934, or until the resumption of duties by the permanent Marshal and authorize him to perform the duties and exercise the authority of Marshal, for which this shall be his warrant.

Given under my hand at Kurunegala, this 22nd day of March, 1934.

C. HARRISON-JONES,
Fiscal.

NOTICES IN TESTAMENTARY ACTIONS.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Last Will and Testa-
Jurisdiction. ment of Jayamanna Mohottige Don
No. 6,755. Christian Jayamanna Appuhamy of
Alutgama Pituwalgoda in Meda pattu of
Siyane korale, deceased.

Jayamanna Mohottige Don John Jayamanna Appu-
hamy of Alutgama Pituwalgoda aforesaid . . . Petitioner.

And

(1) Keenamanna Appuhamillage Dona Missi Mary Hamine, widow of the late Jayamanna Mohottige Don Charles Jayamanna Appuhamy, (2) Jayamanna Mohottige Grace Jayamanna, wife of Dele-watta Appuhamillage Saranella Perera, (3) Jaya-manna Mohottige Deplin Agnes Jayamanna, wife of D. Robert M. Rajapaksa, (4) Jayamanna Mohottige Wilson Alfred Jayamanna, (5) Jayamanna Mohottige Henry Jayamanna, (6) Jayamanna Mohottige David Jayamanna, (7) Jayamanna Mohottige Mabel Harriet Jayamanna, (8) Jayamanna Mohottige Wilbert Jayamanna, (9) Jayamanna Mohottige Jos-line Jayamanna, (10) Jayamanna Mohottige Charles Edgar Jayamanna, all of Alutgama Pituwalgoda aforesaid; 4th to 9th respondents minors by their guardian *ad litem* Keenamanna Appuhamillage Dona Missi Mary Hamine, the 1st respondent above named Respondents.

THIS matter coming on for disposal before G. C. Thambyah, Esq., District Judge of Colombo, on March 12, 1934, in the presence of Mr. D. A. Wiratunga, Proctor, on the part of the petitioner above named; and the affidavits (1) of the said petitioner dated March 10, 1934, and (2) of the attesting notary and the attesting witnesses also dated March 10, 1934, having been read:

It is ordered that the said last will of Jayamanna Mohottige Don Christian Jayamanna Appuhamy, deceased, of which the original has been produced and is now deposited in this court, be and the same is hereby declared proved; and it is further declared that the petitioner is the executor named in the said will and that he is entitled to have probate thereof issued to him accordingly, unless any person or persons interested shall, on or before April 26, 1934, show sufficient cause to the satisfaction of this court to the contrary.

G. C. THAMBYAH,
District Judge.
March 24, 1934.

In the District Court of Negombo.

Order Nisi declaring Will proved.

Testamentary In the Matter of the Joint Last Will and
Jurisdiction. Testament of the late Kuranage Ana
No. 2,913. Perera, deceased, and Geekianage
Joseph Munitheris Fernando, Vedarala,
both of Andiambalama.

Geekianage Joseph Munitheris Fernando, Vedarala of
Andiambalama Petitioner.

Vs.

(1) Geekianage Peter Fernando, (2) Geekianage Manuel Fernando, (3) Geekianage Jokinu Fernando, (4) Geekianage Edwin Fernando, all of Andiambalama, (5) Geekianage Arthur Fernando of Colombo, (6) Geekianage Henry Fernando of Andiambalama Respondents.

THIS matter coming on for disposal before D. H. Balfour, Esq., District Judge of Negombo, on February 13,

1934, in the presence of Mr. H. Paul Silva, Proctor, on the part of the petitioner; and the petition and affidavit of the said petitioner dated February 13, 1934, and February 6, 1934, respectively, and the affidavit dated January 17, 1934, of the notary who attested the last will and the witnesses who subscribed to the said last will having been read:

It is ordered that the joint last will of Kuranage Ana Perera, deceased, and Geekianage Joseph Munitheris Fernando of Andiambalama dated October 5, 1922, now deposited in this court, be and the same is hereby declared proved, unless the respondents above named or any other person or persons interested shall, on or before March 5, 1934, show sufficient cause to the satisfaction of this court to the contrary.

2. It is further declared that the said petitioner is the executor named in the said last will and that he is entitled to have probate of the same issued to him accordingly, unless the respondents above named or any other person or persons interested shall, on or before March 5, 1934, show sufficient cause to the satisfaction of this court to the contrary.

D. H. BALFOUR,
District Judge.
February 13, 1934.

Time for showing cause against the *Order Nisi* is hereby extended to March 16, 1934.

D. H. BALFOUR,
District Judge.
March 5, 1934.

Time for showing cause against this *Order Nisi* is hereby extended to April 17, 1934.

D. H. BALFOUR,
District Judge.
March 16, 1934.

In the District Court of Negombo.

Order Nisi declaring the Will proved.

Testamentary In the Matter of the Last Will and Testa-
Jurisdiction. ment of the late Mr. Don Davith Jaya-
No. 2,911. kody of Jayasiri Medura at Balagalla in
Yatigaha pattu of the Hapitigam korale,
deceased.

Mrs. Dona Charlotte Agnes Gunasekara Jayakody of
Jayasiri Medura at Balagalla Petitioner.

Vs.

(1) Aveysoma Nandawithi Jayakody Menike, (2) Wi-maladharna Hemachandra Jayakody, (3) Waththa Amarawathy Jayakody Menike, (4) Manika Ratnawali Jayakody Menike, (5) Lankatillaka Rajasingha Jayakody, all of Balagalla, (6) Sembukutti Aratchige Don Cornelis Gunasekara of Dambuwa estate, Katunayaka Respondents.

THIS action coming on for disposal before D. H. Balfour, Esq., District Judge of Negombo, on March 1, 1934, in the presence of Mr. D. W. Samarantunga, Proctor, on the part of the petitioner; and the petition and affidavit of the said petitioner dated December 13, 1933, and December 12, 1933, respectively, and the affidavit dated December 12, 1933, of the notary who attested the last will and one of the witnesses who subscribed to the said last will having been read:

It is ordered that the last will of Don Davith Jayakody of Jayasiri Medura, Balagalla, deceased, dated June 14, 1932, and now deposited in this court, be and the same is hereby declared proved, unless the respondents above named or any other person or persons interested shall, on or before April 12, 1934, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said petitioner is the executrix named in the said last will and that she is entitled to have probate of the same issued to her accordingly, unless the respondents above named or any other person or persons interested shall, on or before April 12, 1934, show sufficient cause to the satisfaction of this court to the contrary.

It is further ordered that the 6th respondent above named be appointed guardian *ad litem* over the 1st to 5th respondents who are minors for the purpose of this testamentary action, unless the respondents above named or any other person or persons interested shall, on or before April 12, 1934, show sufficient cause to the satisfaction of this court to the contrary.

D. H. BALFOUR,
District Judge.
March 1, 1934.

In the District Court of Matara.

Testamentary In the Matter of the Last Will and Testa-
Jurisdiction. ment of the late Dona Lawrencina
No. 3,801. Wanigasekera Weeratunga, deceased.

(1) David Wanigasekera of Henegama, (2) Dias Martin
Wanigasekera of Walgama, (3) Awadris Cadmas
Dias Abeygunawardena of Bambalapitiya, (4) Fran-
cis Andrew Siriwardena Samaraweera of Anuradha-
pura Petitioners.

Vs.

(1) Cecilia Wanigasekera of Bambalapitiya, (2) Fred-
rick Wanigasekera of Walgama, (3) Cornelia Waniga-
sekera, (4) D. C. Siriwardena, both of Walgama,
(5) Alice Wanigasekera of Anuradhapura, (6) Soma
Wanigasekera, (7) Charlotte Suganapali Waniga-
sekera, both of Walgama, (8) Paduma Terunnanse
of Mahamantauda Piriwena, Weliveriya,
Matara Respondents.

THIS matter coming on for disposal before C. J. S.
Pritchett, Esq., District Judge of Matara, on March 21,
1933, in the presence of the petitioners above named ;
and the affidavit of the 2nd named petitioner dated Sep-
tember 6, 1932, together with the last will dated February
23, 1932, and the affidavit of the attesting witness and
subscribing notary dated November 26, 1932, having
been read :

It is ordered that the will of Dona Lawrencina Waniga-
sekera *nee* Weeratunga, deceased, dated February 23, 1932,
and now produced in this court, be and the same is hereby
declared proved, unless sufficient cause be shown to the
contrary on June 9, 1933.

It is further ordered that the said David Wanigasekera
of Henegama, (2) Dias Martin Wanigasekera, (3) Awadris
Cadmus Dias Abeygunawardena, and (4) Francis Andrew
Siriwardena Samaraweera are the executors named in the
said will and that they be entitled to have probate of the
same issued to them accordingly, unless the respondents
above named or any person or persons interested shall,
on or before June 9, 1933, show sufficient cause to the
satisfaction of this court to the contrary.

C. J. S. PRITCHETT,
District Judge.

March 21, 1933.

Date extended to May 17, 1934.

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of
Jurisdiction. the late Sabapathippillai Sivaccolumdu
No. 8,432. of Thumpalai, deceased.

Sornaporna, widow of Sabapathippillai Sivaccolumdu of
Thumpalai Petitioner.

Vs.

Sivagamasunderam, daughter of Sivaccolumdu, by her
guardian *ad litem* Sathasivambu Sivasambo of
Thumpalai Respondent.

THIS matter coming on for disposal before C. Coomara-
swamy, Esq., District Judge, Jaffna, on February 14,
1934, in the presence of Mr. S. Mailvaganam on the part
of the petitioner ; and the petition and affidavit of the
petitioner having been read :

It is ordered that letters of administration be granted
to the petitioner, the widow of the said deceased, unless
the above-named respondent shall appear on or before
April 16, 1934, and show sufficient cause to the satisfaction
of this court to the contrary.

C. COOMARASWAMY,
District Judge.

March 15, 1934.

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Estate of the late
No. 8,476. Karthikesar Chinnathamby of Alway
North, deceased.

Chinnathamby Shelliah of Alway North Petitioner.

Vs.

Chellachy, widow of Ponniah of ditto Respondent.

THIS matter of the petition of the above-named peti-
tioner, praying for letters of administration to the estate
of the above-named deceased, Karthikesar Chinnathamby,
coming on for disposal before C. Coomaraswamy, Esq.,
District Judge, on December 21, 1933, in the presence of
Mr. S. Subramaniam, Proctor, on the part of the petitioner ;
and the affidavit of the petitioner dated December 16, 1933,
having been read : It is declared that the petitioner is an
heir of the said intestate and is entitled to have letters of
administration issued to him, unless the respondents
or any other person shall, on or before February 5, 1934,
show sufficient cause to the satisfaction of this court.

C. COOMARASWAMY,
District Judge.

January 16, 1934.

Order Nisi extended for March 5, 1934.

S. RODRIGO,
District Judge.

Order Nisi extended for April 25, 1934.

S. RODRIGO,
District Judge.

In the District Court of Badulla.

Order Nisi.

Testamentary In the Matter of the Estate of Rukia Umma
No. B 935. (wife of M. I. Packir Saibo) of Badulla,
deceased.

Mohamed Ismail Packir Saibo of Badulla Petitioner.

And
A. K. Karapper of Kalmunai Respondent.

THIS matter coming on for disposal before Joseph
Nalliah Arumugam, Esq., District Judge, Badulla, on
February 3, 1934, in the presence of Messrs. H. J. & W. L.
Pinto, Proctors, on the part of the petitioner above named ;
and his petition dated February 3, 1934, and affidavit
dated January 27, 1934, having been read : It is ordered
that the petitioner be and he is hereby declared entitled,
as the husband of the deceased above named, to administer
her estate, and to have letters of administration issued
to him accordingly, unless the respondent above named
or any persons lawfully interested therein shall, on or
before March 14, 1934, show sufficient cause to the satis-
faction of this court to the contrary.

J. N. ARUMUGAM,
District Judge.

February 3, 1934.

Time for showing cause is extended till April 18, 1934.

J. N. ARUMUGAM,
District Judge.

March 14, 1934.