



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to make provision for the Public and Railway Services and the Electrical Undertakings for the financial year 1938-39.

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

1 This Ordinance may be cited as the Appropriation Ordinance, No. of 1938. Short title.

2 Without prejudice to any other law authorising any expenditure, sums not exceeding one hundred and five million four hundred and sixty-one thousand three hundred rupees, twenty million one hundred and eighty thousand four hundred and ten rupees, and three million one hundred and forty-seven thousand eight hundred and fifty-one rupees, are hereby declared to be payable out of the revenue and other funds of the Island, the Ceylon Government Railway, and the Electrical Undertakings, respectively, for the service of the financial year beginning on October 1, 1938, and ending on September 30, 1939; and the said sums may be expended as specified in the First, Second and Third Schedules, respectively. Appropriation for financial year 1938-39.

Schedules I, II., and III.

SCHEDULE I.

Sums payable out of the Revenue of the Island.

	Rs.
1. His Excellency the Governor	180,473
2. Supreme Court	487,767
3. State Council	481,800
4. Audit Office	566,323
5. Chief Secretary	236,964
6. Civil Service	372,838
7. Clerical Service	52,500
8. Defence	1,198,830
9. Ceylon Naval Volunteer Force	75,659
10. Coast Lights	29,753
11. Legal Secretary	105,938
12. Attorney-General	273,000
13. Legal Draftsman	108,883
14. Public Trustee	133,431
15. District Courts	885,205
16. Courts of Requests and Police Courts	507,680
17. Village Tribunals	325,130
18. Fiscals	975,792
19. Financial Secretary	24,645
20. Treasury	424,381
21. Public Debt	28,000
22. Pensions	810,343
23. Widows' and Orphans' Pension Office	30,220
24. Exchange	250,000
25. Currency	321,659
26. Loan Board	11,728
27. Government Stores	264,196
28. Government Press	718,459
29. Department of Income Tax, Estate Duty and Stamps	445,256
30. Customs	880,190
31. Miscellaneous Services	880,500
32. Minister for Home Affairs	50,329
33. Provincial Administration	3,938,413
34. Excise Department	1,632,216
35. Police	3,838,595
36. Prisons	960,186
37. Government Analyst	85,969
38. Zoological Gardens	51,120
39. Minister for Agriculture and Lands	62,209
40. Commissioner for Development of Agricultural Marketing	139,736
41. Appeal Board (Land Settlement Ordinance)	600
42. Land Commissioner	286,470
43. Land Settlement Department	522,302
44. Survey Department	3,357,293
45. Department of Agriculture	1,831,681
46. Forest Department	786,478
47. Registrar of Co-operative Societies	236,680
48. Irrigation Department	1,425,834
49. Irrigation Annually Recurrent	397,500
50. Irrigation Extraordinary	801,030
51. Minister for Local Administration	26,789
52. Commissioner of Local Government	2,920,934
53. Registrar of Motor Cars	148,770
54. Salt and Mineralogy	708,278
55. Department of Fisheries	44,617
56. Schemes assisted by the Colonial Development Fund	67,533
57. Minister for Health	31,215
58. Quarantine	374,992
59. Medical and Sanitary Services	13,134,484
60. Medical College	268,385
61. Ayurvedic Medicine	57,500
62. Minister for Labour, Industry and Commerce	45,399
63. Registrar-General	801,464
64. Director, Tourist Bureau	90,808
65. Director of Commerce and Industries	670,199
66. Controller of Labour	759,124
67. Minister for Education	40,754
68. Education	19,731,439
69. University College	642,899
70. Archaeological Department	164,160
71. Colombo Museum	131,466
72. Minister for Communications and Works	49,682
73. Colombo Port Commission	3,153,533
74. Ports other than Colombo	43,352
75. Post Office and Telegraphs	8,209,165
76. Public Works Department	2,139,668
77. Public Works Annually Recurrent	5,283,900
78. Public Works Extraordinary	3,988,008
79. Civil Aviation	40,083
80. Railway Department	3,180,410
81. Electrical Installations in Government Buildings	548,946
82. Loan Fund Expenditure	5,471,160

105,461,300

SCHEDULE II.

Sums payable out of the Revenue of the Ceylon
Government Railway.

	Rs.
1. Ordinary working expenditure of the Railway	20,180,410
2. Interest payable to the Revenue of the Island on Advances	—
3. Annuities payable to the Revenue of the Island on Loans	—
	20,180,410

SCHEDULE III.

Sums payable out of the Revenue of the Electrical
Undertakings.

	Rs.
1. Ordinary working expenditure of the Electrical Undertakings	2,016,329
2. Interest payable to the Revenue of the Island on Advances	30,000
3. Annuities payable to the Revenue of the Island on Loans	645,394
4. Transfer to Reserve, Extensions and Renewals Fund	456,128
	3,147,851

Objects and Reasons.

This Bill makes provision for expenditure, not covered by other law, on the Public and the Railway Services and the Electrical Undertakings of the Island for the financial year 1938-39.

In accordance with Article 59 (1) of the Ceylon (State Council) Order in Council, 1931, provision is not made in this Bill for sums which are already authorised by law, amounting to Rs. 23,491,600 in the aggregate, as detailed under the appropriate Heads in the Estimates.

D. B. JAYATILAKA,
Minister for Home Affairs, and
Leader of the State Council.

Colombo, July 12, 1938.

MINUTE.

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

**An Ordinance to Amend the Ceylon Post Office
Ordinance, 1908.**

No. 11 of 1908.

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

1 This Ordinance may be cited as the Ceylon Post Office Amendment Ordinance, No. of 1938.

Short title.

2 Section 4 of the Ceylon Post Office Ordinance, 1908, (hereinafter referred to as "the principal Ordinance"), is hereby amended by the addition at the end thereof of the following :—

Amendment of
section 4 of
Ordinance
No. 11 of 1908.

"(1) The expression "aircraft" includes all balloons, whether fixed or free, kites, gliders, airships, airplanes and other flying machines".

3 Section 6 of the principal Ordinance is hereby amended in paragraph (c) of sub-section (1) of that section; by the substitution for the words "either by sea or by land", of the words "by sea, land or air".

Amendment of
section 6 of
the principal
Ordinance.

4 Section 7 of the principal Ordinance is hereby amended as follows :—

Amendment of
section 7 of
the principal
Ordinance.

(a) in paragraph (a) of that section, by the substitution for the words "carts or carriages;" of the words "carts, carriages or other vehicles;" ; and

(b) in paragraph (b) of that section, by the substitution for the words "and their servants or agents," of the words "owners, pilots or other persons in charge of aircraft flying between any places in Ceylon, and the servants or agents of such owners, masters, pilots or other persons,".

Substitution of new heading for heading above section 42 of the principal Ordinance.

5 The principal Ordinance is hereby amended by the substitution for the heading "*Ship Letters.*" immediately above section 42 of that Ordinance, of the heading "*Postal Articles on Ships and Aircraft.*"

Replacement of section 42 of the principal Ordinance.
Postal articles on ships or aircraft.

6 Section 42 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

42. (1) The master of every ship arriving at any port in Ceylon and the pilot or other person in charge of every aircraft arriving at any place in Ceylon shall without delay cause every postal article or mail bag on board such ship or aircraft, as the case may be, which is directed to that port or place and is within the exclusive privilege conferred on the Government by section 6, to be delivered either at the post office of that port or place, or to some officer of the post office authorised in this behalf by the Postmaster-General.

(2) If there is on board any ship or aircraft, referred to in sub-section (1), any postal article or mail bag which is directed to any place within Ceylon, other than the port or place of arrival, and which is within the exclusive privilege conferred by section 6, the master of such ship or the pilot or other person in charge of such aircraft shall without delay report the fact to the officer in charge of the post office of the port or place of arrival, as the case may be, and shall act according to any directions issued by that officer; and the receipt of that officer shall discharge such master, pilot or other person from any further responsibility in respect of the postal article or mail bag referred to in the receipt.

Amendment of section 43 of the principal Ordinance.

7 Section 43 of the principal Ordinance is hereby amended by the substitution for the word "vessel", of the words "vessel or aircraft".

Replacement of section 46 of the principal Ordinance.

8 Section 46 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Gratuities to be given for the conveyance of mails.

46. The Governor may, by notification published in the Government Gazette, declare what gratuities shall be allowed to masters of ships, not being mail ships, or to pilots or other persons in charge of aircraft, not being aircraft under contract with Government for the carriage of mails, in respect of postal articles received by such masters, pilots or other persons for conveyance on behalf of the post office; and the master of any such ship, or the pilot or other person in charge of any such aircraft, which is about to leave any port or place in Ceylon, who receives on board his ship or aircraft a mail bag for conveyance, shall be entitled to demand and obtain immediately the amount of the gratuity payable in respect of the mail bag and its contents.

Replacement of section 76 of the principal Ordinance.

9 Section 76 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Offences by masters of ships and pilots, &c., in charge of aircraft.

76. Whoever—

- (a) being the master of a ship, fails to comply with the provisions of section 45; or
- (b) being the master of a ship, or the pilot or other person in charge of an aircraft, without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to make a report to, or to comply with the directions of, the officer in charge of the post office at a port or place of arrival as required by section 42,

shall be punishable with a fine which may extend to five hundred rupees.

Amendment of section 77 of the principal Ordinance.

10. Section 77 of the principal Ordinance is hereby amended as follows :—

(a) by the substitution for sub-section (1) of the following :—

"(1) Whoever, being the master of any ship arriving at any port in Ceylon, or the pilot or other person in charge of any aircraft arriving at any place in Ceylon, or being a person on board any such ship or aircraft, knowingly has in his baggage or in his possession or custody, after all or any of the postal articles on board such ship or aircraft have been sent to the post office at the port or place of arrival, any postal article which is within the exclusive privilege conferred on the Government by section 6, shall be punishable with a fine which may extend to fifty rupees for every such postal article as aforesaid."

(b) in sub-section (2), by the substitution for the words "such master or other person", of the words "such master, pilot or other person".

Objects and Reasons.

The object of this Bill is to amend the Ceylon Post Office Ordinance, 1908, in order to make the provisions of that Ordinance applicable to the carriage on aircraft of postal articles and mail bags.

J. L. KOTELAWALA,
Minister for Communications and Works.
Colombo, July 4, 1938.

MINUTE.

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

L. D.—O302/32

An Ordinance to amend the Post Office Security Fund Ordinance, 1931.

No. 1 of 1931.

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

1 This Ordinance may be cited as the Post Office Security Fund Amendment Ordinance, No. of 1938, and shall come into operation on such date as the Governor may appoint by Proclamation in the Gazette.

Short title and date of operation.

2 Section 2 of the Post Office Security Fund Ordinance, 1931, (hereinafter referred to as "the principal Ordinance"), is hereby amended in the definition of "The Fund" by the substitution, for all the words from "Security Fund" to "Ordinance", of the words "Security Fund".

Amendment of section 2 of Ordinance No. 1 of 1931.

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

Amendment of section 3 of the principal Ordinance.

(1) by the repeal of sub-section (1) thereof, and the substitution of the following new sub-section for that sub-section :—

"(1) The Post Office Security Fund shall be deemed for all purposes to have been lawfully constituted and established; and all moneys deposited with or paid periodically to the Postmaster-General by officers, before the date on which this Ordinance comes into operation, as security for the due performance of their respective duties, and paid by the Postmaster-General or caused by him to be paid into the Fund, shall be deemed to have been lawfully collected or received by him on behalf of the Crown and to have been lawfully so paid into the Fund, and all moneys paid out therefrom in connection with any such security shall be deemed to have been lawfully so paid." ;

(2) in sub-section (2) thereof, by the substitution, for all the words from "before" to "made", of the words "before the date on which this Ordinance comes into operation shall be deemed to have been lawfully made," ; and

(3) by the repeal of sub-section (3) thereof, and the substitution of the following new sub-section for that sub-section :—

"(3) After the date on which this Ordinance comes into operation, all moneys deposited with or paid periodically to the Postmaster-General by officers, under any written law for the time being in force as to the security to be given for the due performance of their duties, shall be paid by the Postmaster-General or caused by him to be paid to the Board."

4 Section 7 of the principal Ordinance is hereby amended as follows :—

Amendment of section 7 of the principal Ordinance.

(1) in paragraph (1) set out therein, by the substitution, for all the words from "to collect" to "such sums" of the words "to place all moneys received or collected by the Postmaster-General and paid by him to the Board under section 3 (3)" ; and

(2) in paragraph (2) set out therein, by the substitution, for the words "such sums", of the words "such moneys"; and

(3) by the substitution, for paragraph (3) set out therein, of the following new paragraph:—

(3) to pay out of the Fund, in addition to the salaries and allowances for which express provision is made by this Ordinance, such other sums of money as may be payable, under any written law for the time being in force—

(a) to the Postmaster-General on behalf of the Crown, whenever the whole or any part of the amount of the deposits or payments and interest standing to the credit of any officer is appropriated by order of the Postmaster-General in order to meet any loss incurred by the Crown by reason of any default or omission or any negligent or dishonest act on the part of the officer, or is declared forfeit to the Crown, under such written law; or

(b) to any officer who is permitted in accordance with such written law to withdraw the amount of the deposits or payments and interest standing to his credit, after his retirement, resignation or dismissal from office."

Amendment of Section 9 of the principal Ordinance.

5 Section 9 of the principal Ordinance is hereby amended as follows:—

(1) in sub-section (1) thereof, by the omission of paragraphs (a) and (b), and by the re-lettering of paragraphs (c) to (m), inclusive, as paragraphs (a) to (k), respectively; and

(2) in sub-section (2) thereof, and in the marginal note to that sub-section, by the substitution, for the words "First and Second Schedules", of the word "Schedule".

Repeal of the First Schedule to the principal Ordinance.

6 The First Schedule to the principal Ordinance is hereby repealed.

Amendment of the Second Schedule to the principal Ordinance.

7 The Second Schedule to the principal Ordinance is hereby amended by the substitution, for the title "SECOND SCHEDULE", of the title "SCHEDULE".

Objects and Reasons.

The Post Office Security Fund Ordinance, 1931, as its title implies, was intended primarily to provide the machinery and the rules for the administration of the fund made up of the cash security given by the various officers of the Post and Telegraph Department for the due performance of their duties. Under a departmental arrangement in force from 1886, the great majority of the officers had been allowed to furnish the security in instalments, either paid by them at stated intervals or deducted monthly from their salaries until the requisite amount was made up in each case. The practice had not been sanctioned by any law and doubts had arisen as to its legality owing to the absence of any reference to it in the Public Officers' Security Ordinance, which was passed four years later. The opportunity was therefore taken, in 1931, to include in the Post Office Security Fund Ordinance provisions which validated all previous acts and gave legal sanction to the continuance of the practice thereafter.

2. No steps were taken at that time to exclude the officers, or any specified class of the officers, of the Post and Telegraph Department from the operation of the Public Officers' Security Ordinance; but in order to avoid any possible conflict between that Ordinance and the Post Office Security Fund Ordinance, the Public Officers' Security Amendment Ordinance, No. 15 of 1935, brought within the scope of the Ordinance of 1890, the system of furnishing security which continued to be in operation in the Post and Telegraph Department.

3. From 1935, therefore, so far as the officers of the Post and Telegraph Department are concerned, the relevant provisions of the Public Officers' Security Ordinance, 1890, have been supplementary to the provisions of the Post Office Security Fund Ordinance, 1931; but even with this arrangement the law in its actual working has proved to be unsatisfactory. Moreover, two other Departments of the Public

service have since disclosed the fact that they too have for many years followed the same unauthorised practice as the Post and Telegraph Department. It has, therefore, been decided that the system of obtaining cash security from public officers in this particular manner should be legalised and made available to all Departments of the public service by the insertion in the Public Officers' Security Ordinance, 1890, of a new section which will enable the necessary provision to be made by rules, and that those parts of the Post Office Security Fund Ordinance, 1931, should be repealed, which now prescribe, solely for the purposes of the Post and Telegraph Department, the method of giving security and the matters incidental thereto.

4. The amendments to be made in the Public Officers' Security Ordinance, 1890, are dealt with in another Bill which is to be introduced immediately before this Bill. This Bill contains the amendments that it is proposed to make in the Post Office Security Fund Ordinance, 1931.

5. The object of Clause 2 is to remove from the definition of the expression "The Fund", in section 2 of the Ordinance, certain words which have now been found to be both misleading and unnecessary.

6. The amendments contained in clause 3 are designed to set out in more precise terms the various matters that are validated by section 3 of the Ordinance.

7. In its present form section 7 of the Ordinance, which deals with the powers and functions of the Board of Management, does not confer on the Board the powers that experience has shown to be actually necessary for the proper administration of the Fund. The amendments proposed in clause 4 are intended to remedy this defect.

8. Clauses 5, 6 and 7 deal with the various amendments connected with the repeal of those provisions of the Ordinance, (that is to say, the regulations in the First Schedule) which prescribe the method of giving security.

H. J. HUXHAM,
Financial Secretary.

Colombo, June 30, 1938.

MINUTE.

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

L.D.C.F. 7/38

An Ordinance to provide for the allocation and distribution of the rights to plant new areas in rubber.

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

- | | |
|---|---|
| <p>1 This Ordinance may be cited as the Rubber (New-planting) Ordinance, No. of 1938.</p> | <p>Short title.</p> |
| <p>2 Subject to—</p> <p>(a) the general or special directions of the Executive Committee,</p> <p>(b) the new-planting regulations, and</p> <p>(c) the provisions of any Ordinance hereafter to be enacted for the regulation of the production and export of rubber on and after the first day of January, 1939,</p> <p>the Controller may, in his discretion, issue permits for the exercise of new-planting rights.</p> | <p>Controller authorised to issue permits for new-planting.</p> |
| <p>3 Applications for permits to exercise new-planting rights shall be made to the Controller on the prescribed form before the prescribed date.</p> | <p>Applications for permits.</p> |
| <p>4 (1) A permit shall authorise the person named therein (hereinafter referred to as the "permit-holder") to exercise new-planting rights in a specified area of land described in that permit.</p> <p>(a) A permit shall not be negotiable or transferable.</p> | <p>Rights of permit-holder.</p> |
| <p>5 The total area of land in which new-planting rights may be exercised shall not exceed thirty thousand two hundred and sixty acres.</p> | <p>Total area for new-planting.</p> |
| <p>6 No person shall exercise new-planting rights at any time before January 1, 1939, and no person shall, on or after that date, exercise such rights except under a permit issued to that person and in accordance with the terms and conditions of that permit:</p> <p>Provided that nothing herein contained shall be deemed or construed in any way to affect or restrict the right of any</p> | <p>New-planting not to commence till January 1, 1939.</p> |

person to clear, prepare or open any land at any time before January 1, 1939, for the purpose of the exercise of new-planting rights.

Right of
Controller to
enter and
inspect lands.

7 The Controller or any person authorised by him in writing may at any time during the day enter and inspect any land for the purposes of this Ordinance or the new-planting regulations.

Offences.

8 - (1) Any person who—

- (a) acts in contravention of any provision of this Ordinance or of any new-planting regulation ;
- (b) exercises new-planting rights in an area of land in excess of that specified in his permit or in a land other than that described in his permit ;
- (c) obstructs the Controller or any other person authorised by the Controller in the exercise of the powers or the discharge of the duties of the Controller or such other person under section 6,

shall be guilty of an offence and shall, on conviction after summary trial before a Police Magistrate, be liable to a fine not exceeding three hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment.

(2) Where a permit-holder is convicted of an offence under this Ordinance, the Court may order the cancellation of his permit in addition to any other penalty to which he may be liable.

New-planting
regulations.

9 (1) The Executive Committee may make new-planting regulations for the purposes of this Ordinance, and such regulations may contain such incidental, consequential and supplementary provisions as may appear to the Executive Committee to be necessary or proper for giving full effect to this Ordinance.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), new-planting regulations may provide for any or all of the following matters :—

- (a) all matters stated or required by this Ordinance to be prescribed ;
- (b) the forms to be used for the purposes of this Ordinance and the particulars to be inserted therein ;
- (c) the conditions to be attached to a permit ;
- (d) the time within which and the manner in which new-planting rights shall be exercised ;
- (e) the issue of new permits on the death of a permit-holder or in the event of the legal incapacity of the permit-holder by reason of insolvency, lunacy or otherwise ;
- (f) the issue of permits to trustees or minors.

(3) No regulation shall have effect until 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.

(4) A regulation made by the Executive Committee when approved by the State Council and ratified by the Governor shall, upon the notification of such approval and ratification in the Gazette, be as valid and effectual as if it were herein enacted.

Interpretation.

10 In this Ordinance, unless the context otherwise requires—

“exercise”, when used with reference to new-planting rights, means any planting of rubber seeds or rubber plants which constitutes “new-planting” under this Ordinance ;

“new-planting” means the planting of rubber seeds or rubber plants on any area of land which has not carried rubber plants since the seventh day of May, 1934, and includes, in a case where any area of land carries or has carried rubber plants planted together with any other cultivation, the planting of rubber seeds or rubber plants in substitution or part substitution for such other cultivation ;

“new-planting regulations” means regulations made by the Executive Committee under this Ordinance ;

“new-planting rights” means rights of new planting exercisable under this Ordinance in respect of any specified area in Ceylon ;

“permit” means a permit granted by the Controller under this Ordinance ;

“ permit-holder ” means the person named in the permit as a person to whom that permit is granted ;
“ prescribed ” means prescribed by new-planting regulations.

(2) This Ordinance shall, so far as is consistent with the tenor thereof, be read and construed as one with the Rubber Control Ordinance, No. 6 of 1934, and the provisions of section 18 of that Ordinance shall apply accordingly in the interpretation of this Ordinance.

Objects and Reasons.

Section 1 of the Rubber Control Ordinance, No. 6 of 1934, provides that the Ordinance shall continue in operation until December 31, 1938. As the period of control will be extended by another International Agreement, it will be necessary to enact before the close of the current year another Ordinance which will give effect to the provisions of the new Agreement.

2. It is anticipated that in the next period of control Ceylon will be granted the right to open in rubber an area not greater than 30,260 acres. Such rights cannot be exercised until January 1, 1939, but it is essential that lands should be cleared and opened and that all necessary steps should be taken to enable planting to commence at the earliest possible date.

3. The object of this Bill is to provide for the issue of new-planting permits so that preparations can be made in time to commence planting early in the coming year.

B. H. ALUWIHARE,

Acting Minister for Agriculture and Lands.

Colombo, July 12, 1938.