



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 :—

L. D.—O 69/38

**An Ordinance to provide for the continuation of the control of the production and export of rubber.**

TABLE OF SECTIONS.

Section.

1. Short title and date of operation.
2. General control of export.
3. Basic quota.
4. Permissible exportable amount.
5. Net exports.
6. Exportation of rubber plants.
7. Importation of rubber plants.
8. Appointment of Controller, officers, &c.
9. Delegation of Controller's powers.
10. Establishment and constitution of Rubber Advisory Board.
11. Duties, powers and functions of Advisory Board.
12. Boards of Appeal.
13. Duties, powers and functions of a Board of Appeal.
14. Returns from proprietors.
15. Returns from dealers.
16. Rejection of returns received out of time.
17. Power of Controller to call for information.
18. Registers.

19. Decision of questions relating to registration of estates and small holdings.
20. Proprietors.
21. Dealers.
22. Decision of questions relating to registration of proprietors and dealers.
23. Standard production of estates and small holdings.
24. Notification of standard production.
25. Appeal against determination of standard production.
26. Variation of standard production.
27. Exportable maximum.
28. Percentage of reduction and percentage of appreciation.
29. Determination of exportable maximum and notification of percentage of reduction and appreciation.
30. Coupons.
31. Advance issue of coupons.
32. Adjustment for advance issue of coupons.
33. Transfer and sale of coupons, &c.
34. Coupons, &c. to be valuable securities.
35. Rubber export permits.
36. Coupons, &c. to authorise export of rubber.
37. Prohibition of unauthorised possession of rubber.
38. Proprietors' stocks.
39. Dealers' stocks.
40. Authorised stocks of dealers.
41. Determination of authorised stocks.
42. Notice of determination of authorised stocks.
43. Appeal by dealer.
44. Verification of dealers' stocks.
45. Stock export coupons.
46. Issue of coupons in exchange for vouchers.
47. Certificates of origin.
48. Planting.
49. Nurseries.
50. New-planting on equivalent area where estate or small holding is acquired under Ordinance No. 3 of 1876.
51. Areas new-planted under sections 49 and 50 deemed to be included in total area specified in section 5 of Ordinance No. 38 of 1938.
52. Period and total area for new-planting.
53. Additional new-planting.
54. Replanting.
55. Supplying.
56. Eradication and destruction of rubber plants.
57. Rubber Control Fund.
58. Expenditure from Rubber Control Fund.
59. Special cess for research and propaganda.
60. Estimates of income and expenditure.
61. Regulations.
62. Offences.
63. Service of notices, &c.
64. Right of inspection.
65. Protection of officers.
66. Returns to be verified by statutory declaration.
67. Importation and exportation of samples of rubber.
68. Estates or small holdings in one ownership.
69. Prescribed certificate to be conclusive evidence of spuriousness of forged coupon.
70. Relief in cases of hardship.
71. Interpretation.
72. Duration of Ordinance.

**An Ordinance to provide for the continuation of the control of the production and export of rubber.**

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

Short title and date of operation.

1 This Ordinance may be cited as the Rubber Control Ordinance, No. . . . of 1938, and shall come into operation on the first day of January, 1939.

General control of export.

2 No rubber shall be exported from Ceylon unless the export thereof is authorised by or under this Ordinance:

Provided that nothing in this Ordinance shall apply to the export of rubber where before midnight on the thirty-first day of December, 1938—

- (a) the export of that rubber has been authorised by coupons issued under the Rubber Control Ordinance, No. 6 of 1934; and
- (b) a cart note, boat note or railway consignment note in respect of that rubber has been registered at a Customs Export Office or the Canal Lock, as the case may be; or
- (c) that rubber has been placed under customs seal in a godown or store duly approved by the Principal Collector of Customs.

3 For the purpose of determining the permissible exportable amount for any period of control, the basic quota for each year of control shall be the quantity of rubber specified hereunder for that year :—

1939	..	..	106,000 tons
1940	..	..	107,500 tons
1941	..	..	109,000 tons
1942	..	..	109,500 tons
1943	..	..	110,000, tons

Basic quota.

4 The permissible exportable amount of any period of control shall be a quantity of rubber equal to such percentage of the basic quota as may be fixed by the International Rubber Regulation Committee from time to time.

Permissible exportable amount.

5 Subject as hereinafter provided, the net exports for any year of control shall be limited to the permissible exportable amount for that year of control :

Net exports.

Provided that—

- (1) the net exports in any year of control may exceed the permissible exportable amount by a quantity not greater than five per centum of that amount, but if the permissible exportable amount is exceeded in any year of control, the net exports for the year of control next succeeding that year shall be limited to the permissible exportable amount for such year less the amount of such excess for the previous year of control ;
- (2) if in any year of control an amount less than the permissible exportable amount has been exported, the net exports for the year of control immediately succeeding that year may exceed the permissible exportable amount for such year by an amount equal to the deficiency below the permissible exportable amount for the previous year if such deficiency was not more than ten per centum of such permissible exportable amount, or equal to ten per centum of such permissible exportable amount if the deficiency exceeds ten per centum.

6 (1) No person shall export any rubber plant from Ceylon to any place other than a territory or group of territories to which the Agreement applies.

Exportation of rubber plants.

(2) No person shall export any rubber plant from Ceylon to any territory to which the Agreement applies except on a permit issued by the Controller.

(3) Every permit under sub-section (2) shall be in the prescribed form and subject to the prescribed terms and conditions.

(4) The territories to which the Agreement applies are :—

Straits Settlements,  
 Federated Malay States,  
 Unfederated Malay States,  
 Brunei,  
 Netherlands Indies,  
 India,  
 Burma,  
 French Indo-China,  
 State of North Borneo,  
 Sarawak,  
 Siam.

Importation of rubber plants.

7 Every person who imports any rubber plant into Ceylon shall, within the prescribed period, furnish to the Controller such particulars relating to such plant and the importation thereof as may be prescribed.

Appointment of Controller, officers, &amp;c.

8 (1) The Governor may appoint—

- (a) any person, by name or by office, to be or to act as Rubber Controller ;
- (b) any person, by name or by office, to be or to act as Deputy Rubber Controller ;
- (c) any person, by name or by office, to be or to act as an Assistant Rubber Controller ; and
- (d) such other officers and servants as may from time to time be required for the purposes of this Ordinance.

(2) The Governor may, in respect of any appointment or class of appointments, delegate to the Controller all or any of his powers under paragraph (d) of sub-section (1).

(3) All persons, officers and servants appointed by the Governor or by the Controller for the purposes of the Rubber Control Ordinance, No. 6 of 1934, who are in office at the time when the Rubber Control Ordinance, No. 6 of 1934, ceases to be in operation shall continue in their respective offices and shall be deemed to be appointed under this section.

(4) In the exercise of their powers and in the discharge of their duties under this Ordinance, all persons, officers and servants appointed or deemed to be appointed under this section shall be subject to the general direction and control of the Executive Committee.

(5) All persons, officers and servants appointed or deemed to be appointed under this section shall be deemed to be public servants within the meaning of the Ceylon Penal Code.

Delegation of  
Controller's  
powers.

9 In relation to any particular matter or class of matters or to any particular area or district, the Controller may, with the consent of the Executive Committee, by writing under his hand, delegate any of his powers under this Ordinance (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or to the area or district mentioned in the instrument of delegation.

Establishment  
and constitution  
of Rubber  
Advisory Board.

10 There shall be a Rubber Advisory Board which shall consist of a Chairman, who shall be the Rubber Controller for the time being, and such other members not exceeding ten in number as the Governor may appoint.

Duties, powers  
and functions of  
Advisory Board.

11 (1) It shall be the duty of the Advisory Board—

- (a) to advise the Controller on all matters incidental or relating to the control and regulation under this Ordinance of the production, importation and exportation of rubber from Ceylon and on all other matters which the Controller may refer to the Board for advice; and
- (b) to perform and exercise such duties and powers as may be prescribed or entrusted to it under this Ordinance.

(2) Regulations may be made providing for the conduct of business by the Advisory Board and prescribing the procedure to be followed at meetings of that Board. Subject to any such regulations, the Board may regulate its own procedure.

Boards of  
Appeal.

12 (1) For the purposes of this Ordinance, the Governor shall appoint not less than ten persons all of whom shall form a panel from which each Board of Appeal shall be constituted as hereinafter provided.

(2) Every Board of Appeal shall consist of three persons on the panel, at least one of whom shall be an Advocate or Proctor of the Supreme Court of not less than ten years' standing.

Duties, powers  
and functions  
of a Board of  
Appeal.

13 (1) It shall be the duty of a Board of Appeal to hear and determine all appeals preferred under this Ordinance and any appeal preferred to a Board of Appeal established under the Rubber Control Ordinance, No. 6 of 1934, which has not been disposed of by that Board prior to the first day of January, 1939.

(2) Regulations may be made prescribing—

- (a) the time within which and the manner in which appeals shall be so preferred;
- (b) the forms to be used and the fees to be paid in preferring appeals;
- (c) the procedure to be observed for convening a Board of Appeal and for the hearing of appeals;
- (d) the remuneration to be paid to the members of a Board of Appeal; and
- (e) generally for all matters connected with or incidental to the matters specifically enumerated in this subsection or to the hearing or disposal of appeals.

(3) The decision of a Board of Appeal on any matter or question brought before it by way of appeal shall, subject to the provisions of this Ordinance, be final.

## 14 (1) The proprietor—

Returns from  
proprietors.

- (a) of every estate or small holding which was not registered under the provisions of the Rubber Control Ordinance, No. 6 of 1934, and carried rubber plants on the date of the commencement of that Ordinance, and
- (b) of every land which after that date was planted for experimental purposes under section 44 of that Ordinance,

shall, on or before the prescribed date in the year of control commencing on the first day of January, 1939, furnish to the Controller a return in the prescribed form containing the prescribed particulars.

(2) Every person who after the thirty-first day of December, 1938, plants any rubber on any land under the authority of any permit granted under the Rubber (New-planting) Ordinance, No. 38 of 1938, or under this Ordinance, shall within the prescribed period or before the prescribed date furnish to the Controller a return in the prescribed form containing the prescribed particulars.

(3) The Controller may, at any time in any year of control, require any person who is registered as the proprietor of any estate or small holding or of any part of any estate or small holding or any person claiming to be registered as such proprietor to furnish a return in the prescribed form containing the prescribed particulars.

(4) No land which was not registered as an estate or small holding under the provisions of the Rubber Control Ordinance, No. 6 of 1934, shall be registered under this Ordinance unless and until a return has been duly furnished under this section in respect of that land.

15 On or before the prescribed date in each year of control, every dealer other than a dealer registered under the Rubber Control Ordinance, No. 6 of 1934, or under this Ordinance, shall furnish to the Controller a return in the prescribed form containing the prescribed particulars.

Returns from  
dealers.

16 No return shall be accepted by the Controller in any year of control if such return is received by him on a date subsequent to the date on which such return is required to be furnished under this Ordinance.

Rejection of  
returns received  
out of time.

17 (1) It shall be lawful for the Controller at any time to direct the proprietor of an estate or small holding or any dealer—

Power of  
Controller to  
call for  
information.

- (a) to furnish before a specified date such information or explanation as the Controller may require in respect of any particulars stated in any return furnished by such proprietor or dealer or for the purposes of this Ordinance; or
- (b) to produce or cause to be produced before a specified date such documentary or other evidence as the Controller may require for the purpose of verifying any facts or particulars in any return furnished by such proprietor or dealer, or for the purposes of this Ordinance; or
- (c) to furnish before a date specified by the Controller in any month or in each month in any series of months, such particulars as the Controller may require in respect of the production, sale, delivery, purchase, or export of rubber, or the stocks of rubber held by such proprietor or dealer; or
- (d) to furnish before a specified date such information as may be necessary to enable statistics (including statistics as to costs of production) to be prepared by the Controller for submission to the International Rubber Regulation Committee in terms of the Agreement.

(2) In this section, "return" includes a return made under the Rubber Control Ordinance, No. 6 of 1934, or to the Rubber Investigating Officer as defined in that Ordinance in response to any notification published by him prior to the commencement of that Ordinance.

18 (1) The Controller shall keep in the prescribed form a register of estates, a register of small holdings, and a register of dealers.

Registers.

(2) Any register of estates or of small holdings, or of dealers kept under the Rubber Control Ordinance, No. 6 of 1934, in the form prescribed under that Ordinance, shall be deemed to be a register kept under sub-section (1) for the purposes of this Ordinance.

(3) Regulations may be made—

- (a) requiring any registered proprietor or registered dealer to notify to Controller the occurrence of any circumstance affecting the accuracy of any particulars relating to the estate or small holding of which he is the registered proprietor or to the business of which he is the registered dealer contained in any return furnished to the Controller under the Rubber Control Ordinance, No. 6 of 1934, or to the Rubber Investigating Officer as defined in that Ordinance, or to the Controller under this Ordinance; and
- (b) prescribing the circumstances and the manner in which any entry made in the register may be amended from time to time.

(4) In the event of the death of any registered proprietor or dealer, the person entering into possession or having control of the estate or small holding of that proprietor or assuming or having charge of the business of that dealer—

- (a) shall give written information of the death to the Controller within one month thereof; and
- (b) shall comply with the requirements of section 17 (1) (c) or of any regulation made under sub-section (3) as though he were the registered proprietor of that estate or small holding or the dealer registered as the proprietor of that business until the name of the deceased proprietor or dealer is deleted from the register and the name of the person entitled to be registered is duly substituted therefor.

(5) In the event of the transfer of the estate or small holding of a registered proprietor or the business of a registered dealer, the person to whom such estate, small holding or business is transferred—

- (a) shall furnish to the Controller a return in the prescribed form containing the prescribed particulars; and
- (b) shall, together with such return, transmit to the Controller a certified copy of the document by which such transfer was effected, or, if so required, the original of such document.

In this sub-section "transfer" means any transfer of ownership and includes any sale, donation or other disposition of the estate or small holding of a registered proprietor or the business of a registered dealer.

(6) An appeal shall lie to a Board of Appeal against any decision of the Controller to amend the register under any regulation made under sub-section (3).

Decision of questions relating to registration of estates and small holdings.

19 (1) The Controller shall decide—

- (a) whether any land is an estate or small holding and whether it is entitled to be registered as such;
- (b) whether any estate or small holding is entitled to be registered in any particular district.

(2) Any estate or small holding registered as such under the provisions of the Rubber Control Ordinance, No. 6 of 1934, shall be deemed to be a registered estate or small holding, as the case may be, for the purposes of this Ordinance.

(3) Regulations may be made prescribing the circumstances or cases in which the registration of any estate or small holding may be varied or cancelled by the subdivision of any registered estate or small holding or by the re-grouping or consolidation of any registered estate or small holding with any other registered estate or small holding or otherwise.

In this sub-section, "estate" or "small holding" includes any part of any estate or small holding.

(4) The Controller shall decide whether the registration of any estate or small holding shall be varied or cancelled.

(5) An appeal shall lie to a Board of Appeal against any decision made by the Controller under this section.

20 (1) Any provision of this Ordinance relating to or affecting the proprietor of any estate or small holding shall apply equally to any person who is the proprietor of any portion or share, whether divided or undivided, of any estate or small holding.

Proprietors.

(2) The person for the time being registered as the proprietor of any estate or small holding or as the proprietor of any portion or share, whether divided or undivided, of any estate or small holding shall, for the purposes of this Ordinance be the proprietor of that estate or small holding or of such portion or share of such estate or small holding, as the case may be.

(3) Any person registered under the provisions of the Rubber Control Ordinance, No. 6 of 1934, as the proprietor of an estate or small holding or as the proprietor of any portion or share, whether divided or undivided, of any estate or small holding shall be deemed to be the proprietor of that estate or small holding or of that portion or share, as the case may be, for the purposes of this Ordinance :

Provided that nothing herein contained shall affect any variation or cancellation authorised by or under the Rubber Control Ordinance, No. 6 of 1934, or this Ordinance in regard to any entry in any register relating to any estate or small holding.

21 (1) Every person who on the thirty-first day of December, 1938, is registered as a dealer under the provisions of the Rubber Control Ordinance, No. 6 of 1934, shall be deemed to be a registered dealer for the purposes of this Ordinance :

Dealers.

Provided that nothing herein contained shall exempt any such person from the necessity for obtaining a licence under the Rubber Thefts Prevention Ordinance, 1908, for each year of control during the operation of this Ordinance.

(2) On or before the prescribed date in each year of control, every dealer who is not registered as a dealer under this Ordinance shall apply to the Controller for registration. Every such application shall be made in the prescribed form.

(3) The registration of a dealer who is registered or deemed to be registered under this Ordinance may be cancelled by the Controller in such manner and in such circumstances as may be prescribed.

(4) An appeal shall lie to a Board of Appeal against any decision of the Controller under this section.

22 (1) The Controller shall decide whether any person is entitled to be registered as the proprietor of an estate or of a small holding, or as the proprietor of any portion or share, whether divided or undivided, of any estate or small holding, or as a dealer, or whether any premises may be registered as the licensed premises of any dealer.

Decision of questions relating to registration of proprietors and dealers.

(2) An appeal shall lie to a Board of Appeal against any decision of the Controller under this section.

(3) No decision of the Controller under sub-section (1) or of a Board of Appeal under sub-section (2) in regard to the question of the proprietorship of any estate or small holding or of any share or portion of any estate or small holding shall operate as *res adjudicata* on any question in any civil action in which the title to a registered estate or small holding or to any portion or share of any registered estate or small holding shall be put in issue.

23 (1) Subject to the provisions of sub-sections (2) and (3) and of section 26 (3), the standard production of an estate or small holding for any year of control shall be the aggregate of—

Standard production of estates and small holdings.

(a) the amount of the yield of the immature areas of that estate or small holding expressed in pounds of dry rubber and determined for that year of control in such manner as may be prescribed ; and

(b) the amount of the yield of the mature areas of that estate or small holding for the year of control commencing on the first day of January, 1939, expressed in pounds of dry rubber and determined as hereinafter provided.

(2) Where the amount referred to in paragraph (a) or the amount referred to in paragraph (b) of sub-section (1), or the aggregate referred to in that sub-section, is varied under

section 26 in respect of any estate or small holding in any year of control, the amount or the aggregate as so varied shall be substituted for the corresponding amount or the aggregate referred to in that sub-section for the purpose of determining the standard production of that estate or small holding for that year of control; and, where either of the amounts or the aggregate referred to in sub-section (1) has been varied on more than one occasion in any year of control, the amount or aggregate as last varied shall be substituted for the corresponding amount or aggregate referred to in that sub-section for the purpose of determining the standard production of that estate or small holding for that year of control.

(3) Subject to the provisions of sub-section (4), the amount of the yield of the mature areas of any estate or small holding for the year of control commencing on the first day of January, 1939, shall, if that estate was registered under the provisions of the Rubber Control Ordinance, No. 6 of 1934, be the standard production of that estate or small holding (exclusive of any allowance for immature areas) as determined under that Ordinance for the year of control commencing on the first day of January, 1938; and, where any amount has to be or has been added to or deducted from the standard production of any such estate or small holding in respect of the correction made for that year of control by reason of any order under section 22 (1) of that Ordinance, or where the assessment of the standard production of any such estate has been varied under section 22 (2) of that Ordinance, the standard production of that estate or small holding for the year of control commencing on the first day of January, 1938, shall, for the purposes of this sub-section, be deemed to be the standard production (exclusive of any allowance for immature areas) as so increased, reduced or varied under that Ordinance.

(4) (a) Where on or before a date prescribed in the year of control commencing on the first day of January, 1939, the registered proprietor of any estate or small holding applies to the Controller in writing for the assessment of the yield of the mature areas and of the immature areas, if any, of that estate or small holding, the Controller shall inspect that estate or small holding or cause that estate or small holding to be inspected for the purposes of such assessment and shall assess the yield of the mature areas of that estate or small holding and, separately, the yield of the immature areas, if any, of that estate or small holding. Any such proprietor who applies for any such assessment shall, together with his application, remit to the Controller the prescribed fee; and no such application shall be entertained unless it is accompanied by the prescribed fee.

(b) The provisions of sub-section (3) shall cease to apply to any estate or small holding upon the receipt by the Controller of an application for assessment under paragraph (a) of this sub-section.

(5) Where an estate or small holding which was not registered under the Rubber Control Ordinance, No. 6 of 1934, is registered under this Ordinance after the date prescribed for the purposes of sub-section (4), the Controller shall, on payment by the registered proprietor of the prescribed fee, inspect that estate or small holding or cause that estate or small holding to be inspected and shall assess the yield of the mature areas of that estate or small holding and, separately, the yield of the immature areas, if any, of that estate or small holding:

Provided that if at the time of registration such estate or small holding does not contain any mature areas, such assessment shall be made at such time and in such manner as may be prescribed.

(6) Every assessment under this section of the yield of the mature areas of any estate or small holding shall be based on the condition of such mature areas on the first day of January, 1939, and on the amount of rubber which is estimated by the Controller to be the optimum yield of such mature areas for a period of twelve months reckoned from that date.

(7) Regulations may be made prescribing the principles and factors to be taken into account and the method to be employed for the purpose of estimating the optimum yield of the mature areas of an estate or small holding under this section.



24 The Controller shall determine the standard production of each estate or small holding for each year of control and shall notify the registered proprietor of that estate or small holding, as the case may be, of the amount of the standard production so determined :

Notification of standard production.

Provided that it shall not be necessary to notify any registered proprietor of the amount of the standard production for any year of control if the standard production of his estate or small holding for that year of control is the same as the standard production determined for that estate or small holding for the immediately preceding year of control.

25 The registered proprietor of an estate or small holding who is dissatisfied with the determination of the standard production of his estate or small holding may appeal therefrom to a Board of Appeal :

Appeal against determination of standard production.

Provided that no appeal shall lie to a Board of Appeal against the amount assessed as the yield of the mature areas of any estate or small holding and included in the amount determined as the standard production of that estate or small holding for any year of control, if an appeal against such assessment could have been or was preferred in any previous year of control.

26 (1) The Controller may, by order, vary the standard production of any estate or small holding whenever it appears to him—

Variation of standard production.

- (a) that the proprietor of that estate or small holding has made any false or misleading statement to the Controller or furnished to the Controller any false or misleading information or particulars affecting the determination or assessment of the standard production of that estate or small holding, whether under this Ordinance or under the Rubber Control Ordinance, No. 6 of 1934, or in reply to any notification issued by the Controller ; or
- (b) that at any time in any year of control, whether under the Rubber Control Ordinance, No. 6 of 1934, or under this Ordinance, an error has been made in the determination or assessment of the standard production of that estate or small holding ; or
- (c) that the rubber trees on any area of that estate or small holding which were taken into account for the purpose of the determination or assessment of the standard production of that estate or small holding under this Ordinance or under the Rubber Control Ordinance, No. 6 of 1934, have been felled or destroyed, or that any such area has been abandoned :

Provided that no order shall be made on the ground that such rubber trees have been felled or destroyed during the operation of this Ordinance if the Controller is satisfied that the area on which the felling or destruction took place will be replanted in the year of control next succeeding that in which such trees were felled or destroyed.

(2) (a) In paragraph (a) of sub-section (1) " Controller " includes the Controller appointed under the Rubber Control Ordinance, No. 6 of 1934, and the Rubber Investigating Officer as defined in that Ordinance.

(b) In paragraph (b) of sub-section (1), " error " means any arithmetical or clerical error and any error as to the extent of any estate or small holding or of any mature or immature areas thereof, and includes any error, inaccuracy or omission in respect of any matter of fact comprised within the data taken or required to be taken into consideration in the determination or assessment of the standard production of that estate or small holding whether under this Ordinance or under the Rubber Control Ordinance, No. 6 of 1934.

(3) Where the Controller for any reason varies the standard production of any estate or small holding by order made in any year of control in the exercise of any power conferred by sub-section (1), the Controller shall, if he is of opinion that such power should for the same reason be exercised in respect of the standard production of that estate or small holding for any previous year of control, include in the order made by him under sub-section (1) a further order to the effect that the standard production and the exportable maximum of that estate or small holding shall be deemed to be varied for any previous year of control or series of such years of control during the operation of this Ordinance ; and the standard production and exportable maximum of that estate or small holding shall be deemed to be varied accordingly.

(4) An order made under sub-section (1) shall have effect in accordance with the provisions of section 23, notwithstanding any decision of a Board of Appeal under the Rubber Control Ordinance, No. 6 of 1934, and notwithstanding any decision of a Board of Appeal under this Ordinance on an appeal from any previous order made under that sub-section.

(5) A copy of any order made by the Controller under sub-section (1) in respect of any estate or small holding shall be served on the registered proprietor of that estate or small holding, as the case may be, who, if dissatisfied with that order, may appeal therefrom to a Board of Appeal.

Exportable  
maximum.

27 (1) Subject to the provisions of sub-section (4), the exportable maximum of any estate or small holding for any year of control shall be the amount of the standard production of that estate or small holding for that year of control reduced by an amount ascertained by taking a percentage of such standard production equal to the percentage of the reduction.

(2) Where there is no percentage of reduction for any year of control, the amount of the exportable maximum of any estate or small holding for that year of control shall, subject to the provisions of sub-section (4), be the standard production of that estate or small holding for that year of control.

(3) Where there is a percentage of appreciation for any year of control, the amount of the exportable maximum of any estate or small holding for that year of control shall, subject to the provisions of sub-section (4), be the standard production of that estate or small holding increased by an amount ascertained by taking a percentage of such standard production equal to the percentage of appreciation.

(4) Where, by order of the Controller made under section 26 (3) in any year of control, the exportable maximum of any estate or small holding is deemed to be varied for any year of control or for any series of years of control, it shall be lawful for the Controller to cause an amount equivalent to the amount by which the exportable maximum of that estate or small holding for that year of control or for each year in such series of years of control is deemed to be increased or reduced, as the case may be, to be added to or deducted from the exportable maximum of that estate or small holding or of any other estate or small holding of the same proprietor for the year of control in which the order under section 26 (3) was made or in any one or more succeeding years of control, in such instalments as he may in his discretion determine.

(b) It shall be lawful for the Controller to deduct from the exportable maximum of any estate or small holding for the year of control commencing on the first day of January, 1939, or any succeeding year of control during the operation of this Ordinance, in such instalments as he may in his discretion determine, such an amount as was authorised to be deducted from the exportable maximum of that estate or small holding under section 23 of the Rubber Control Ordinance, No. 6 of 1934, but which was not deducted or was not fully deducted therefrom on the date on which that Ordinance ceased to be in operation.

(c) The amounts, if any, authorised to be deducted from the exportable maximum of any estate or small holding under this sub-section shall be in addition to the amounts, if any, authorised to be deducted under sub-section (1).

(5) Notwithstanding anything contained in this section, the exportable maximum of any prescribed estate or small holding belonging to and worked by or on account of the Government of Ceylon or the Rubber Research Institute of Ceylon shall be the standard production thereof.

Percentage of  
reduction and  
percentage of  
appreciation.

28 (1) If in any year of control the total amount (hereinafter in this section referred to as the "first amount") of the standard production of all registered estates and small holdings for that year of control exceeds the amount (hereinafter in this section referred to as the "second amount") of the permissible exportable amount for the same year of control, the difference between the two amounts shall, when expressed as a percentage of the first amount, be the percentage of reduction.

(2) If in any year of control the first amount is equal to the second amount, there shall be no percentage of reduction for that year of control.

(3) If in any year of control the first amount is less than the second amount, the difference between the two amounts shall, when expressed as a percentage of the first amount, be the percentage of appreciation.

(4) The Controller may in his discretion vary the percentage of reduction computed under sub-section (1) or the percentage of appreciation computed under sub-section (3) so as to enable effect to be given to any orders made under section 26 and to the provisions of sections 27 (4), 45 and 46; and where any such variation is made by the Controller, the percentage of reduction or appreciation as so varied shall be the percentage of reduction or appreciation, as the case may be, referred to in section 27.

29 The Controller shall, as soon as may be practicable in each year of control, proceed to determine the exportable maximum of each estate and small holding for that year of control and shall notify in at least one English, one Sinhalese and one Tamil newspaper circulating in Ceylon the percentage of reduction or appreciation, as the case may be, used for the purpose of determining such exportable maximum.

Determination of exportable maximum and notification of percentage of reduction or appreciation.

30 (1) Subject to the provisions of section 32, the registered proprietor of each estate or small holding shall be entitled to receive from the Controller, during any year of control, coupons representing the quantity of rubber which may be exported in respect of that estate or small holding during that year of control:

Coupons.

Provided that the Controller may defer the issue of coupons in respect of any estate or small holding pending the investigation of any matter or question or the determination of any appeal preferred under the Rubber Control Ordinance, No. 6 of 1934, or under this Ordinance in relation to that estate or small holding.

(2) No coupon shall be valid after the thirty-first day of December of the year of control in which it is issued.

(3) The Controller may, by notification published in the Gazette and at least in one English, one Sinhalese and one Tamil newspaper circulating in the Island, limit the validity of any coupons issued in any year of control to such period as he may consider desirable or expedient.

31 In anticipation of the determination of the exportable maximum of any estate or small holding in any year of control, the Controller may issue to the registered proprietor of that estate or small holding coupons at such times and in such quantities as the Controller may in his discretion determine in respect of the amount estimated by him to be the probable exportable maximum of that estate or small holding for that year of control.

Advance issue of coupons.

32 The amount represented by coupons issued under section 31 shall be deducted from the amount for which coupons may be issued under section 30.

Adjustment for advance issue of coupons.

33 Nothing contained in this Ordinance shall be deemed to render illegal the transfer or sale of coupons or stock export coupons by one person to another.

Transfer and sale of coupons, &c.

34 Every coupon and every stock export coupon issued under this Ordinance shall be deemed to be a valuable security within the meaning of the Ceylon Penal Code.

Coupons, &c., to be valuable securities.

35 The Controller may issue in exchange for any coupon or number of coupons a rubber export permit for the export of the amount of rubber represented by such coupon or coupons. Every such permit shall have endorsed thereon the date of the issue of that permit and shall be valid for the period specified therein.

Rubber export permits.

36 A coupon, a rubber export permit or a stock export coupon issued under this Ordinance shall authorise the export from Ceylon of an amount of rubber equal to the amount represented by such coupon, rubber export permit or stock export coupon.

Coupons, &c., to authorise export of rubber.

37 No person other than a registered proprietor or a registered dealer shall have any rubber in his possession or under his control:

Prohibition of unauthorised possession of rubber.

Provided that nothing in this section shall apply to the possession or control of rubber by—

- (a) any person acting for or on behalf of a registered proprietor or a registered dealer; or
- (b) any person acting by the authority or in execution of the order or decree of any court relating to that rubber; or

- (c) any person appointed as the assignee or provisional assignee of an insolvent ; or
- (d) any person appointed as an official liquidator where a company is wound up by court or any person appointed to be a liquidator for the purpose of voluntarily winding up a company ; or
- (e) any person lawfully exercising any lien over that rubber ; or
- (f) any person who acquires title to that rubber from a registered proprietor or dealer or succeeds to the right, title, or interest of any registered proprietor or dealer ; or
- (g) any other person or class of persons specially exempted by regulation from the operation of this section in such circumstances and subject to such conditions as may be prescribed.

Proprietors' stocks.

38 (1) During the operation of this Ordinance, the proprietor of any estate which is not less than one hundred acres in extent shall not, at any time in any year of control, have in his possession or under his control stocks of rubber exceeding one quarter of the amount of the standard production of that estate for the preceding year of control.

(2) During the operation of this Ordinance, the proprietor of any estate which is less than one hundred acres in extent or the proprietor of any small holding shall not, at any time in any year of control, have in his possession or under his control stocks of rubber exceeding the normal limits which are hereby declared to be one quarter of the amount of the standard production of such estate or small holding, as the case may be, for the preceding year of control.

(3) In this section, " preceding year of control " , when used in relation to the year of control commencing on the first day of January, 1939, means the year of control under the Rubber Control Ordinance, No. 6 of 1934, commencing on the first day of January, 1938.

Dealers' stocks.

39 (1) The total quantity of rubber in the possession or under the control of registered dealers (exclusive of proprietors' stocks referred to in section 38) shall not, at any time in any year of control, exceed an amount equivalent to twelve and one half per centum of the permitted exportable amount for the preceding year of control.

(2) In this section, " preceding year of control " when used in relation to the year of control commencing on the first day of January, 1939, means the year of control under the Rubber Control Ordinance, No. 6 of 1934, commencing on the first day of January, 1938.

Authorised stocks of dealers.

40 No dealer shall at any time in any year of control have in his possession or under his control stocks of rubber exceeding the amount determined by the Controller in accordance with the provisions of this Ordinance to be the authorised stock of that dealer for that year of control.

Determination of authorised stocks.

41 (1) The authorised stock of each registered dealer for each year of control shall be determined by the Controller in such manner as may be prescribed.

(2) When determining the authorised stocks of registered dealers for any year of control, the Controller may set apart for such purposes as may be prescribed a prescribed amount or proportion of the total quantity of rubber which may be in the possession or under the control of all registered dealers under section 39.

(3) Any surplus out of the amount set apart under subsection (2) shall, after the application of that amount for all authorised purposes, be allocated *pro rata* by the Controller in the prescribed manner among registered dealers and shall upon such allocation be deemed to be part of the authorised stock of those registered dealers to whom it is allocated.

Notice of determination of authorised stocks.

42 Notice shall be served on each registered dealer of the amount determined by the Controller under section 41 to be the authorised stock of that dealer for each year of control.

Appeal by dealer.

43 A registered dealer who is dissatisfied with the determination of his authorised stock made by the Controller under section 42 may appeal therefrom to a Board of Appeal.

44 (1) As soon as may be in the month of January in every year of control, the Controller shall cause to be verified, in such manner as he may determine, the amount of the stocks in the possession or under the control of every registered dealer as at midnight on the thirty-first day of December in the preceding year of control.

Verification of dealers' stocks.

(2) In this section "preceding year of control", when used in relation to the year of control commencing on the first day of January, 1939, means the year of control under the Rubber Control Ordinance, No. 6 of 1934, commencing on the first day of January, 1938.

45 (1) Every registered dealer shall, in each year of control, be entitled to receive, on such conditions and before such date as may be prescribed, stock export coupons in exchange for coupons which ceased to be valid on the thirty-first day of December of the preceding year of control :

Stock export coupons.

Provided that a registered dealer shall not be entitled to receive in any year of control stock export coupons in exchange for such coupons, unless he had in stock, as at midnight on the thirty-first day of December of the preceding year of control, a quantity of rubber equivalent to that represented by such coupons :

Provided, further, that the amount represented by the coupons exchanged in any year of control shall in no case exceed the amount of the authorised stock of that registered dealer for the preceding year of control.

(2) A stock export coupon issued in any year of control shall cease to be valid on the expiry of a period of two months reckoned from the first day of January in that year of control.

(3) In this section, "preceding year of control" and "coupons", when used in relation to the year of control commencing on the first day of January, 1939, mean the year of control under the Rubber Control Ordinance, No. 6 of 1934, commencing on the first day of January, 1938, and coupons issued under that Ordinance in that year of control.

46 The Controller shall, on or before the thirty-first day of January, 1939, deliver to any person in exchange for any voucher issued to that person under the provisions of the Rubber (Reduction of Exports) Ordinance, 1938, coupons authorising the export during the year of control commencing on the first day of January, 1939, of an amount of rubber equivalent to that specified on that voucher.

Issue of coupons in exchange for vouchers.

47 (1) No rubber shall be exported from Ceylon unless that rubber is accompanied by a certificate of origin in the prescribed form authenticated by the Principal Collector of Customs or by some other officer of customs acting on his behalf.

Certificates of origin.

(2) No rubber shall be imported into Ceylon unless that rubber is accompanied by a certificate of origin duly authenticated by the competent authority of the country of origin. Such certificate may be accepted without further proof if the Principal Collector of Customs or any officer authorised by him to examine any such certificate is satisfied that it has been so authenticated :

Provided that no such certificate of origin shall be required in respect of—

(a) articles and things manufactured wholly or partly of rubber ; and

(b) rubber proved to the satisfaction of the Principal Collector of Customs to have been imported from the Island of Singapore or from the Island of Penang or from such other rubber storage place as may be sanctioned by the International Rubber Regulation Committee.

(3) A certificate of origin accompanying rubber imported into Ceylon shall, when endorsed by the prescribed officer in the prescribed manner, be sufficient authority for the export of the same rubber from Ceylon to any other territory.

(4) Any person who in contravention of the provisions of this section exports or imports or attempts to export or import any rubber which is not accompanied by a certificate of origin shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment ; and the Magistrate

shall, on the conviction of any such person of any such offence, order the confiscation or destruction of the rubber in respect of which the offence was committed. Rubber confiscated in pursuance of an order made under this subsection shall be disposed of or destroyed in such manner as may be prescribed.

**Planting.**

**48** (1) No person shall plant rubber plants except—

- (a) in the exercise of new-planting rights under the Rubber (New-planting) Ordinance, No. 38 of 1938, or under sections 49, 50 and 53 of this Ordinance; or
- (b) for the purpose of re-planting the whole or any part of an estate or small holding in accordance with the provisions of section 54; or
- (c) for the purpose of supplying the whole or any part of an estate or small holding in accordance with the provisions of section 55.

(2) Rubber plants which are found to be planted in any estate, small holding or other land shall be deemed to have been planted by the registered proprietor of that estate or small holding, or by the owner of that land, as the case may be, until the contrary is proved; and any rubber plant which has developed and grown from seed which has germinated without having been intentionally planted shall nevertheless be deemed to have been planted.

**Nurseries.**

**49** (1) No person shall, in the exercise of new-planting rights, plant rubber plants in any nursery except on a permit issued by the Controller and in accordance with such terms and conditions as may be prescribed.

(2) On and after the prescribed date, no rubber nursery which was in existence on the thirty-first day of December, 1938, shall be maintained except on a permit issued by the Controller and in accordance with such terms and conditions as may be prescribed.

**New-planting on equivalent area where estate or small holding is acquired under Ordinance No. 3 of 1876.**

**50** (1) Where the whole or any part of any registered estate or small holding is lawfully acquired for the use of the Crown or of any local authority under the provisions of the Land Acquisition Ordinance, 1876, or of any other written law for the time being in force and has ceased or ceases to be land planted with rubber by reason of the destruction of the rubber plants growing thereon, the registered proprietor of that estate or small holding may, under the authority of a permit in the prescribed form obtained from the Controller, exercise new-planting rights on any other land to an extent not exceeding that on which such rubber plants were growing prior to their destruction in such manner and subject to such terms and conditions as may be prescribed.

(2) In this section, "local authority" means any Municipal Council, Urban District Council, Local Board, Sanitary Board or Village Committee.

**Areas new-planted under sections 49 and 50 deemed to be included in total area specified in section 5 of Ordinance No. 38 of 1938.**

**51** Any area of land on which new-planting rights are exercised under section 49 or section 50 during the period commencing on the first day of January, 1939, and ending on the thirty-first day of December, 1940, shall be deemed to be included in the total area of thirty thousand two hundred and sixty acres mentioned in section 5 of the Rubber (New-planting) Ordinance, No. 38 of 1938, notwithstanding anything to the contrary in that Ordinance or in the new-planting regulations made thereunder.

**Period and total area for new-planting.**

**52** Subject to the provisions of section 53, new-planting rights under the Rubber (New-planting) Ordinance, No. 38 of 1938, and under this Ordinance shall not be exercised except during the period commencing on the first day of January, 1939, and ending on the thirty-first day of December, 1940; and, subject as aforesaid, the total area in respect of which new-planting rights may be exercised during that period shall not be greater than thirty thousand two hundred and sixty acres, which shall be deemed to be five per centum of the total area planted in rubber in Ceylon.

**Additional new-planting.**

**53** (1) In addition to the area of thirty thousand two hundred and sixty acres hereinbefore mentioned on which new-planting rights may be exercised under the provisions of the Rubber (New-planting) Ordinance, No. 38 of 1938, and

of this Ordinance, new-planting rights may be exercised in such manner, to such extent and subject to such conditions as may be prescribed—

- (a) during the period commencing on the first day of January, 1939, and ending on the thirty-first day of December, 1940, on any additional area which the International Rubber Regulation Committee may allocate to Ceylon under Article 12 (b) of the Agreement;
- (b) during the period commencing on the first day of January, 1941, and ending on the thirty-first day of December, 1943—
  - (i) on an area not greater than the percentage of the total planted area of Ceylon which the International Rubber Regulation Committee shall fix from time to time for such periods as that Committee shall determine under Article 12 (c) (i) of the Agreement; and
  - (ii) on any area up to a maximum of one-fifth of the area permitted to be new-planted under clause (i) of this paragraph which the International Rubber Regulation Committee may allocate to Ceylon under Article 12 (c) (ii) of the Agreement.

(2) The "total planted area" of Ceylon shall, for the purposes of this section, be deemed to be six hundred and five thousand two hundred acres.

(3) The extent of any area on which new-planting rights may be exercised under this section, the periods during which such rights may be exercised and other particulars relating to the exercise of such rights shall be notified by the Governor in the Gazette.

54 (1) The proprietor of a registered estate or small holding may, subject to such terms and conditions as may be prescribed, replant the whole or any part of that estate or small holding under the authority of a permit in the prescribed form obtained from the Controller.

Re-planting.

(2) Where the International Rubber Regulation Committee under Article 12 (f) of the Agreement limits replanting after the thirty-first day of December, 1940, notification of such limitation shall be published by the Governor in the Gazette and the rights conferred by sub-section (1) shall, upon such publication, be modified accordingly and shall thereafter be exercised subject to such limitations, restrictions, terms and conditions as may be prescribed.

(3) In this section, "replanting" or "replant" means planting, during the operation of the Rubber Control Ordinance, No. 6 of 1934, and of this Ordinance, more than thirty rubber plants on any acre of any area carrying rubber plants on the seventh day of May, 1934, so far as such planting does not constitute new-planting as defined in this Ordinance.

55 (1) It is hereby declared that the supplying of any registered estate or small holding is permitted unconditionally during the operation of this Ordinance.

Supplying.

(2) In this section, "supplying" means planting, during the operation of the Rubber Control Ordinance, No. 6 of 1934, and of this Ordinance, thirty rubber plants or less on any acre of any area carrying rubber plants on the seventh day of May, 1934, so far as such planting does not constitute new-planting as defined in this Ordinance.

56 (1) Upon the conviction of any person of any offence specified in sub-section (2), a Magistrate shall, in addition to any fine or other penalty which he may lawfully impose for any such offence, order that all rubber plants planted in contravention of any such provision of law shall be eradicated and destroyed by or at the instance of the person so convicted within a period to be fixed in the order; and, upon the failure of the person so convicted to comply with the terms of such order within the period so fixed, the Magistrate may cause the rubber plants referred to in that order to be eradicated and destroyed at the expense of such person. The cost of eradicating and destroying the rubber plants may be recovered from that person as though a fine for a like amount had been imposed upon him by the Magistrate, notwithstanding the fact that the total amount of such cost may be in excess of the amount which such Magistrate may impose as a fine in the exercise of his ordinary jurisdiction.

Eradication and destruction of rubber plants.

(2) The offences referred to in sub-section (1) are :—

- (a) any contravention of any provision of sections 48, 49, 50, 53, 54 and 55 of this Ordinance ;
- (b) any offence under section 8 (1) (a) or section 8 (1) (b) of the Rubber (New-planting) Ordinance, No. 38 of 1938 ; and
- (c) any contravention of any regulation made under this Ordinance and relating to the exercise of new-planting rights, or to replanting or supplying.

(3) Notwithstanding that no person may have been prosecuted for or convicted of any offence specified in sub-section (2), a Magistrate may, on the application of the Controller or of some person authorised in writing by the Controller in that behalf, order the eradication or destruction of any rubber plants if he is satisfied that such rubber plants have been planted in contravention of any provision of this Ordinance or of the Rubber (New-planting) Ordinance, No. 38 of 1938, or of the new-planting regulations made under that Ordinance, or of any regulation made under this Ordinance.

(4) No order under sub-section (3) shall be made by a Magistrate unless notice of the application under that sub-section has been served on the registered proprietor of the estate or small holding on which such rubber plants are planted or, if the plants are not planted in a registered estate or small holding, then on the owner of the land on which such rubber plants are planted. If the owner of the land cannot be found, such notice shall be deemed to be duly served on him if it is affixed in a conspicuous position on the land and exhibited there for a period of fourteen days.

(5) An order under sub-section (3) shall be carried out under the direction of the Controller and by his agents ; and, in carrying out any such order, neither the Controller nor any such agent shall incur any liability for destroying or damaging on the same estate, small holding or land, as the case may be, any rubber plant planted thereon in accordance with the provisions of this Ordinance or of the Rubber (New-planting) Ordinance, No. 38 of 1938, or of the new-planting regulations made under that Ordinance or of any regulation made under this Ordinance.

**Rubber Control Fund.**

**57** (1) There shall be established a Rubber Control Fund for the purposes of this Ordinance.

(2) All moneys standing to the credit of the Rubber Control Fund established under the Rubber Control Ordinance, No. 6 of 1934, at midnight on the thirty-first day of December, 1938, and all moneys which under section 47 (4) of that Ordinance are payable to the Controller for the credit of that fund in respect of any period prior to the first day of January, 1939, shall, after all such payments from that fund as are mentioned in section 48 of that Ordinance have been defrayed in respect of any period prior to the first day of January, 1939, be credited and paid to the Rubber Control Fund established under sub-section (1).

(3) In order to provide an income for the payment of the expenses of the administration of this Ordinance and such other expenses as may be authorised under section 58, there shall be charged, levied and paid an export duty on rubber of thirty cents for every one hundred pounds of dry rubber exported from Ceylon :

Provided, however, that no such duty shall be charged or levied on any rubber which is proved to the satisfaction of the Principal Collector of Customs to have been imported into Ceylon for the purpose of re-export.

(4) The amount of the duty imposed by sub-section (3) may be varied or the duty may be rescinded at any time by resolution of the State Council duly passed at any public session of the Council and sanctioned by the Governor.

(5) This section shall have effect as though it formed part of Ordinance No. 17 of 1869 ; and the provisions of that Ordinance shall apply accordingly.

(6) The proceeds of the export duty recovered under this Ordinance shall be paid over monthly to the Controller by the Principal Collector of Customs and shall be credited to the fund established under sub-section (1) ; and no part thereof shall be credited to general revenue.

(7) The export duty authorised to be imposed under this section shall be in addition to the export duty authorised under section 59 or any other written law but shall not be



taken into account in estimating the export duty levied on rubber under the law of Ceylon for the purposes of section 31 of the Income Tax Ordinance, 1932.

No. 2 of 1932.

(8) There shall be credited to the Rubber Control Fund the proceeds realised by the sale or other disposition of any rubber under section 3 (6) of the Rubber (Reduction of Exports) Ordinance, No. of 1938.

**58** (1) Out of the Rubber Control Fund there shall be paid—

Expenditure from Rubber Control Fund.

- (a) the expenses of the administration of this Ordinance ;
- (b) the salaries, wages, rewards and fees necessary for or incidental to the carrying out of the provisions of this Ordinance ;
- (c) the prescribed contributions to any provident fund or scheme established in accordance with regulations for the payment of gratuities to any or all of the persons, officers and servants employed for the purposes of this Ordinance ;
- (d) such contributions as may be payable by Ceylon towards the expenses of the International Committee under Article 16 of the Agreement ;
- (e) such amount as the Governor may from time to time sanction as the expenses of the delegation representing Ceylon on the International Rubber Regulation Committee ; and
- (f) the expenses of assessment and all other expenses, costs and charges incidental to the carrying out of the provisions of this Ordinance or in furtherance of the control of the production of rubber in Ceylon or the export of rubber therefrom.

(2) The surplus, if any, which may ultimately be found to be to the credit of the Rubber Control Fund after the payment of the expenses, contributions, costs and charges referred to in sub-section (1) shall be applied for the furtherance and development of the rubber industry and to purposes connected therewith or incidental thereto in such manner as the State Council may, by resolution, from time to time determine.

**59** (1) There shall be levied, charged and paid an export duty of five and one half cents on every one hundred pounds of dry rubber exported from Ceylon. Such export duty shall be in addition to the export duty referred to in section 57 or any other export duty imposed under any other written law on rubber exported from Ceylon.

Special cess for research and propaganda.

(2) So much of the duty referred to in sub-section (1) as represents the duty at the rate specified in that sub-section on the net exports of rubber from Ceylon shall from time to time be remitted to the British Rubber Research Board to be devoted to research and propaganda as set out in Article 19 (ii) of the Agreement.

(3) It is hereby declared that out of the export duty of eighty and one half cents on every one hundred pounds of rubber produced in Ceylon and exported therefrom imposed under section 11 of Ordinance No. 17 of 1869 by notification published in Gazette Extraordinary No. 8,246 of September 30, 1936, a sum of five and one half cents represents the export duty required to be charged, levied and paid under sub-section (1).

(4) Nothing in this section shall affect the right of the State Council to impose, by resolution under section 11 of Ordinance No. 17 of 1869 and on the recommendation of the International Rubber Regulation Committee, an export duty on rubber at a rate higher than that specified in sub-section (1) for the purposes specified in sub-section (2).

**60** (1) The Controller shall transmit to the Executive Committee not later than the first day of December in each year of control estimates of expenditure likely to be incurred in the administration of the Ordinance and of the income likely to accrue to the Rubber Control Fund for the next succeeding year of control.

Estimates of income and expenditure.

(2) The estimates of income and expenditure transmitted to the Executive Committee under sub-section (1) shall, at the first convenient opportunity, be placed before the State Council for its approval.

**61** (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 :—

- (a) all matters stated or required in this Ordinance to be prescribed ;
- (b) the registers and books to be kept for the purposes of this Ordinance, the forms of such registers and books and the particulars to be entered therein ;
- (c) forms of all returns, notices, coupons, permits, certificates, declarations and documents required to be made, certified, issued or used for the purposes of this Ordinance ;
- (d) the inspection of estates, small holdings, and licensed premises and the verification of proprietors' and dealers' stocks ;
- (e) the payment or recovery of costs, fees, or other charges ;
- (f) the determination of the quantity of latex, or of any other form of rubber other than dry rubber, which shall be deemed to be the equivalent of a stated quantity of dry rubber for any of the purposes of this Ordinance ;
- (g) the method of computing or assessing the yield of the immature areas of estates or small holdings ;
- (h) the division of Ceylon or any specified part thereof into planting districts ;
- (i) the sub-division of certificates of origin issued by any other territory and the authentication of such divided certificates of origin ;
- (j) the conversion into crepe rubber of scrap rubber imported into Ceylon on certificates issued by any other territory, the export from Ceylon of such converted rubber on amended certificates of origin, and the authentication of such amended certificates of origin ;
- (k) the establishment and regulation of a provident fund or scheme for the payment of gratuities to any or all of the persons, officers and servants employed for the purposes of this Ordinance and the determination of the amounts to be paid to such fund or scheme from the Rubber Control Fund ;
- (l) the issue of rubber export permits ;
- (m) the establishment, maintenance and administration of a rubber coupon bank and the introduction of a system of ledger credit accounts ;
- (n) all matters incidental to or connected with the matters or subjects specifically referred to in this sub-section.

(3) Every regulation made by the Executive Committee shall be published in the Gazette and shall come into operation on a specified date or, if no such date is specified, upon such publication.

(4) Every regulation made by the Executive Committee shall be brought before the State Council within a period of one month from the date of the publication of that regulation under sub-section (3), or, if no meeting of the State Council is held within that period, at the first meeting of the State Council held after the expiry of that period, by a motion that such regulation shall be approved, and, if so approved, shall be submitted to the Governor for ratification. There shall be set out in a schedule to every such motion the text of the regulation to which such motion refers.

(5) Any regulation which the State Council refuses to approve or which the Governor refuses to ratify shall be deemed to be rescinded but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation. The date on which a regulation shall be deemed to be rescinded shall be the date on which the State Council refuses to approve, or the date on which the Governor refuses to ratify the regulation, as the case may be.

(6) Notification of the date on which any regulation made by the Executive Committee is so deemed to be rescinded shall be published in the Gazette.

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

62 (1) any person who—

- (a) commits a breach of any of the provisions of this Ordinance or of any regulation, or
- (b) makes default in complying with any direction or requirement duly made under the powers conferred by this Ordinance, or
- (c) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred upon him under this Ordinance, or
- (d) makes any declaration or furnishes any return containing any particular which is false and which he knows to be false or does not believe to be true,

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

(2) No prosecution for any offence under this Ordinance shall be instituted except with the written sanction of the Controller.

(3) Upon conviction of any person for a breach of provisions of section 37 or of any proprietor or dealer for having in his possession or under his control stocks of rubber in excess of the quantity authorised under this Ordinance, the Magistrate shall, in addition to any fine or other penalty which he may impose, order the confiscation of the rubber in respect of which the offence was committed. Rubber confiscated in Pursuance of an order made under this sub-section shall be disposed of or destroyed in such manner as may be prescribed.

63 (1) Subject to provisions of sub-section (2), all notices, orders, certificates, coupons, stock export coupons, permits or other documents required or authorised by this Ordinance to be served on, or delivered or issued to a registered proprietor or dealer shall be deemed to have been duly served on or delivered or issued to such proprietor or dealer if delivered at the registered address of such proprietor or dealer or to his duly authorised agent, or if posted to him at his registered address; and all such notices, orders, certificates, coupons, stock export coupons, permits or other documents required or authorised by this Ordinance to be served on any person other than a registered proprietor or registered dealer shall be deemed to be served on such person if posted to or delivered at his residence.

(2) Where the Controller has appointed a place in any area or district for the delivery of coupons to registered proprietors of estates or small holdings and has notified in the prescribed manner the fact of the appointment of such place and the serial numbers of the estates and small holdings for which such place was so appointed, it shall be the duty of the registered proprietor of any such estate or small holding to attend at that place at the time and on the date fixed in the notification for the purpose of receiving coupons, and any coupons delivered to any such proprietor or to his agent at that place shall be deemed to be duly delivered for the purposes of this Ordinance.

64 The Controller, or any person authorised by him in writing, may at any time enter any estate, small holding, immature area or licensed premises for the purposes of inspection, or for the purpose of verifying stocks or any particulars furnished in any return made or information given to the Controller under this Ordinance or under the Rubber Control Ordinance, No. 6 of 1934, or to the Rubber Investigating Officer as defined in that Ordinance, or for the purpose of making any survey plan of, or taking any measurements of or on, that estate, small holding or area, and may, for the purposes of such inspection, enter any factory, office or other building on that estate, small holding or area.

65 No action shall be instituted against the Controller or against the Advisory Board or any member thereof or against any Board of Appeal or any member of any such Board or against any other officer or person acting in compliance with any direction or requirement of the Controller or of the Advisory Board or of a Board of Appeal, to charge him, them or any of them in respect of any act which may have been done or which may have been left undone in good faith in pursuance or supposed pursuance of his or their powers or duties under this Ordinance.

Offences:

Service of notices, &c.

Right of inspection.

Protection of officers.

Returns to be verified by statutory declaration.

66 (1) Every return required by this Ordinance or under the regulations made thereunder and any explanation or information required by the Controller to be furnished under this Ordinance shall, unless it is otherwise provided, be verified by a declaration that the statements contained therein are true and accurate.

(2) Every declaration made under this Ordinance shall be free from stamp duty.

Importation and exportation of samples of rubber.

67 Subject as hereinafter provided, nothing in this Ordinance or in any regulation shall apply to the importation into Ceylon or the exportation from Ceylon of samples of rubber :

Provided that no such sample shall exceed five pounds in weight :

Provided, further, that no sample of rubber shall be exported from Ceylon unless the packet containing such sample bears a special "Rubber Sample" label which the Controller is hereby authorised to issue or to refuse to issue in the exercise of his discretion.

Estates or small holdings in one ownership.

68 All estates or small holdings in one ownership may be regarded and dealt with as one unit for the purposes of this Ordinance.

Prescribed certificate to be conclusive evidence of spuriousness of forged coupon.

69 (1) In any proceedings in which the genuineness of any coupon shall be in question, a certificate in the prescribed form, under the hand of an officer appointed by the Governor for that purpose, to the effect that such coupon is spurious on the ground that it does not contain the secret features characteristic of a genuine coupon of corresponding denomination, number, and date, shall be received in all courts of law as conclusive evidence of the spuriousness of such coupon.

(2) The officer appointed by the Governor shall not be examined or cross-examined with respect to any certificate issued by him under sub-section (1).

(3) In this section, "coupon" includes a stock export coupon.

Relief in cases of hardship.

70 If in the operation of this Ordinance any case shall arise in which, in the opinion of the Executive Committee, substantial hardship is likely to be caused to any person by reason of an unintentional failure on the part of such person to observe any formality prescribed by this Ordinance or by any regulations thereunder, the Executive Committee may give such directions as may be necessary to mitigate or prevent such hardship.

Interpretation.

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

"Advisory Board" means the Rubber Advisory Board established under section 10 ;

"Agreement" means the international agreement to regulate the production and export of rubber in and from producing countries ;

"basic quota", used with reference to any year of control, means the basic quota fixed for that year of control by section 3 ;

"Board of Appeal" means a Board of Appeal established under section 12 ;

"Controller" means the Rubber Controller appointed or deemed to be appointed under section 8 and includes the Deputy Rubber Controller and any Assistant Rubber Controller appointed or deemed to be appointed under that section ;

"dealer" means a person licensed to deal in rubber under the Rubber Thefts Prevention Ordinance, 1908 ;

"estate" means an area of land ten or more acres in extent on which rubber plants are grown for the purpose of collecting latex therefrom ;

"Executive Committee" means the Executive Committee of Agriculture and Lands ;

"exercise", used with reference to new-planting rights, means any planting of rubber plants which constitutes "new-planting" ;

"exportable maximum", used with reference to an estate or small holding for any year of control, means the portion of the permissible exportable amount determined in respect of that estate or small holding for that year of control in accordance with the provisions of this Ordinance ;

- “immature area” means an area of land planted with rubber plants which are not fully mature ;
- “International Rubber Regulation Committee” means the international committee constituted under Article 15 of the Agreement ;
- “licensed premises” means the place where a licensed dealer is authorised to deal in rubber, and includes any place at which a licensed dealer is authorised to receive, store or sell rubber for the purposes of his business by endorsement made by the Government Agent upon the licence issued to him under the Rubber Thefts Ordinance, 1908 ;
- “mature area” means an area of land planted with rubber plants which are fully mature ;
- “net exports”, used with reference to any period of time, means the difference between the total exports of rubber from Ceylon during that period and the total imports of crude rubber into Ceylon during the same period ;
- “new-planting” means the planting of 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 plants in substitution or part substitution for such other cultivation ;
- “new-planting rights” means rights of new-planting exercisable under this Ordinance or under the Rubber (New-planting) Ordinance, No. 38 of 1938 ;
- “permissible exportable amount”, used with reference to any year of control, means the maximum quantity of rubber which may be exported from Ceylon during that year of control, except as otherwise provided in this Ordinance ;
- “prescribed” means prescribed by this Ordinance or by any regulation made thereunder ;
- “proprietor” means the owner, lessee, usufructuary mortgagee or other person lawfully in possession and taking the produce of an estate or small holding, and, where such owner, lessee, mortgagee or other person is absent from Ceylon, includes any duly accredited agent of such owner, lessee, mortgagee or other person ;
- “registered” means registered or deemed to be registered under this Ordinance ;
- “regulation” means a regulation made by the Executive Committee under this Ordinance ;
- “replanting” or “replant” means planting during the operation of the Rubber Control Ordinance, No. 6 of 1934, and of this Ordinance more than thirty plants on any acre of any area carrying rubber plants on the seventh day of May, 1934, so far as such planting does not constitute new-planting ;
- “rubber” means—
- (a) crude rubber, that is to say rubber prepared from the leaves, bark or latex of any rubber plant and the latex of any rubber plant, whether fluid or coagulated, in any stage of the treatment to which it is subjected during the process of conversion into rubber, and latex in any state of concentration ; and
  - (b) in sections 3, 4, 5, and 47 (1) includes the raw rubber content of all articles and things manufactured wholly or partly from crude rubber in Ceylon ;
- “rubber plant” means a plant, tree, shrub or vine and includes any leaf, flower, seed, bud, twig, branch, root or any living portion of any plant, tree, shrub or vine which may be used to propagate any of the following :—
- (a) *Hevea Braziliensis* (Para Rubber),
  - (b) *Manihot Glaziovii* (Ceara Rubber),
  - (c) *Castilloa elastica*,
  - (d) *Ficus elastica* (Rambong),
  - (e) any other plant, tree, shrub or vine which the International Rubber Regulation Committee may decide is a rubber plant ;

“small holding” means an area of land less than ten acres in extent on which rubber plants are grown for the purpose of collecting latex therefrom ;

“standard production”, used with reference to an estate or small holding, means the amount of rubber determined under this Ordinance to be the standard production of that estate or small holding ;

“stock” includes rubber sold and held for shipment or delivery ;

“supplying” or “supply” means planting during the operation of the Rubber Control Ordinance, No. 6 of 1934, and of this Ordinance thirty rubber plants or less on any acre carrying rubber plants on the seventh day of May, 1934, so far as such planting does not constitute “new-planting” ;

“year of control” means any calendar year during the operation of this Ordinance.

(2) Any reference in this Ordinance to a quantity of rubber expressed in tons shall be deemed to refer to that quantity in tons of 2,240 English pounds of dry rubber.

(3) This Ordinance shall be read and construed as one with the Rubber (New-planting) Ordinance, No. 38 of 1938, and the Rubber (Reduction of Exports) Ordinance, 1938.

Duration of  
Ordinance.

72 This Ordinance shall continue in operation for a period of five years reckoned from the first day of January, 1939 ;

Provided that the expiration of this Ordinance shall not affect any penalty, forfeiture, or punishment previously incurred under this Ordinance or under any regulations, or affect any legal proceeding or remedy in respect of any such penalty, forfeiture, or punishment, and any such legal proceeding may be instituted, or continued, or enforced, and such penalty, forfeiture, or punishment may be imposed as if this Ordinance had not expired.

#### *Objects and Reasons.*

The Rubber Control Ordinance, No. 6 of 1934, was enacted in order to give effect to an International Agreement which was signed at London on the 7th May, 1934. The text of that Agreement has since been modified, and the object of this Bill is to give effect to the revised Agreement for the regulation of the production and export of rubber. Section 1 of the Rubber Control Ordinance, No. 6 of 1934, provides that that Ordinance shall continue in operation till the 31st of December, 1938.

In view of the numerous amendments which will have to be made in that Ordinance in order to give effect to the revised Agreement, it was considered advisable that an entirely new Ordinance should be enacted to secure the continuation of the control of the production and exportation of rubber.

The essential features of the Rubber Control Ordinance, No. 6 of 1934, have been retained as far as possible ; but the opportunity has been taken to insert in the Bill clauses which have been redrafted so as to avoid difficulties of administration or interpretation which have arisen from time to time. The new Ordinance will be construed as one with the Rubber (New-planting) Ordinance, No. 38 of 1938, which was enacted as a preliminary measure in order to enable preparations for new-planting to be made as early as possible.

2. In addition to the area of 30,260 acres on which new-planting rights may be exercised under the provisions of the Rubber (New-planting) Ordinance, No. 38 of 1938, the International Agreement provides for the allocation of additional areas in different periods during the next five years (Clause 53). “Re-planting”, which means planting during the period of the regulation more than thirty plants of rubber on any acre of any area carrying rubber on the 7th May, 1934, and “supplying”, which means planting during the period of the regulation thirty rubber plants or less on any acre of any area carrying rubber on the same date, will be permitted unconditionally.

3. Clauses 23 et seq., which provide for the determination of the standard production of estates and small holdings, are new. The standard production of an estate or small holding for the year 1938 will continue to be the standard production of that estate or small holding for the first and every subsequent year of control in the next five years, unless the registered proprietor of that estate or small holding applies for re-assessment. Such re-assessment will be made only

after inspection by an officer authorised by the Controller. Deductions authorised under the Rubber Control Ordinance, No. 6 of 1934, will continue to be made under the new law.

4. Under the existing law, a coupon automatically authorises the exportation of the amount of rubber specified therein; but a practice has arisen whereby the Rubber Controller issues permits for export in exchange for coupons. This practice has been legalised in the Bill; and provision has also been made to obtain necessary legislative authority for the system of ledger credit accounts known as the rubber coupon bank.

5. Clause 38 makes provision for the authorised stocks of proprietors. Under the new law, the owner of a rubber estate of not less than 100 acres in area will be permitted to hold in his possession stocks of rubber not exceeding one-quarter of the total standard production of his estate for the preceding control year. Proprietors will, therefore, under the new law, be entitled to hold larger stocks than they are permitted to keep under the Rubber Control Ordinance, No. 6 of 1934.

Under the existing law, dealers are permitted to keep stocks not exceeding 12½ per cent. of the permissible exportable amount for any control year. Under the new law, dealers' stocks will be limited to a quantity not exceeding 12½ per cent. of the permissible exportable amount for the *preceding* control year.

6. Clause 3 sets out the basic quotas for each year of control. The figures of these quotas are considerably in excess of those fixed for the years of control under the original International Agreement.

7. Clause 45 provides for the issue of stock export coupons, which will be valid for a period of two months reckoned from the first day of January in each year of control.

8. Power will be taken for the establishment and regulation of a provident fund or scheme for the payment of gratuities to officers and servants employed for the administration of the Ordinance.

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

Colombo, November 3, 1938.

## MINUTE.

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

M. L. A.—B 1589/L.D.—O 33/38

**An Ordinance to amend the Municipal Councils Ordinance, 1910.**

No. 6 of 1910.

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 Municipal Councils Amendment Ordinance, No. of 1938.

Short title.

2 Section 45 of the Municipal Councils Ordinance, 1910, is hereby amended in paragraph (j) of sub-section (1) of that section, by the substitution, for the word "institution" at the end of that paragraph, of the following:—

Amendment of section 45 of Ordinance No. 6 of 1910.

"institution, or to any fund or scheme constituted or established for the purpose of granting relief or assistance to Municipal officers or servants in cases of sickness, indebtedness or distress."

### *Objects and Reasons.*

The object of this Bill is to amend section 45 of the Municipal Councils Ordinance, 1910, in order to enable a Municipal Council to make contributions from the funds of the Municipality to any fund or scheme constituted or established for the purpose of granting relief or assistance to Municipal officers or servants in cases of sickness, indebtedness, or distress.

S. W. R. D. BANDARANAIKE,  
Minister for Local Administration,

Colombo, October 26, 1938.

## MINUTE.

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

M. L. A.—B 1599/L. D.—O 56/38

**An Ordinance to amend the Municipal Councils Ordinance, 1910.**

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

Short title and date of operation.

1 This Ordinance may be cited as the Municipal Councils (Amendment) Ordinance, No. of 1938, and shall come into operation on such date as the Governor may appoint by Proclamation published in the Gazette.

Amendment of Schedule D to Ordinance No. 6 of 1910.

2 The Municipal Councils Ordinance, 1910, is hereby amended in Schedule D thereto—

(1) by the substitution for the item—

“ For every bicycle or tricycle, or bicycle car or cart, or tricycle car or cart .. 3· 0 ”

of the following :—

“ For every bicycle or tricycle, or bicycle car or cart, or tricycle car or cart—

(a) if used for trade purposes .. 5· 0

(b) if used for other than trade purposes .. 1· 0 ”;

(2) in the item “ For every horse, pony, or mule ”, by the substitution for the figures “ 2·50 ” of the figures “ 5· 0 ”; and

(3) by the addition at the end of that Schedule of the following :—

‘ In this Schedule, “ trade purposes ” includes the carriage or transport, in connexion with any business or trade and whether for sale or otherwise, of any articles or goods or of any written or printed matter. ’

*Objects and Reasons.*

The object of this Bill is to amend the Municipal Councils Ordinance, 1910, so as to alter the maximum amount of the tax leviable annually on certain vehicles and animals. The tax in the case of bicycles, &c., used for trade purposes as defined in the Bill is increased from Rs. 3 to Rs. 5, while in the case of bicycles, &c., used for other than trade purposes it is reduced to Re. 1. The tax on horses, ponies and mules is increased from Rs. 2·50 to Rs. 5.

S. W. R. D. BANDARANAIKE,  
Minister for Local Administration.

Colombo, October 25, 1938.

## MINUTE.

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

M. L. A.—B 1610/L. D.—O 84/38

No. 6 of 1910.

**An Ordinance to amend the Municipal Councils Ordinance, 1910.**

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 Municipal Councils Amendment Ordinance, No. of 1938.

Amendment of section 216 of Ordinance No. 6 of 1910.

2 The Municipal Councils Ordinance, 1910, (hereinafter referred to as “ the principal Ordinance ”), is hereby amended in section 216 by the addition, at the end thereof, of the following :—

“ Provided further that in sanctioning the conditions for the repayment of the said loan, the Governor may dispense with the requirements provided for in section 219. ”



3 Section 219 of the principal Ordinance is hereby amended by the addition at the end thereof, of the following :—

Amendment of section 219 of the principal Ordinance.

“ Provided, however, that the provisions of this section shall not apply where an order has been made by the Governor under the last proviso to section 216 dispensing with the requirements provided for in this section.”

*Objects and Reasons.*

The object of this Bill is to amend the Municipal Councils Ordinance, 1910, in order to enable the Governor, in sanctioning the conditions for the repayment of loans made by any person to any Municipal Council, to provide for the total extinction of the debt on payment by the Council of fixed instalments for a definite number of years. As, in such cases, the sinking fund required by section 219 of the Ordinance will not be necessary, it is proposed to add a proviso to section 216 to the effect that the requirements of section 219 may in such cases be dispensed with, and a proviso with the like effect to section 219 of the Ordinance.

S. W. R. D. BANDARANAIKE,  
Minister for Local Administration.

Colombo, October 26, 1938.

MINUTE.

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

M. L. A.—B 1588/L. D.—O 67/38

**An Ordinance to enable pensions or gratuities to be granted and paid to the widows, children, next of kin or dependants of deceased officers or servants of specified or authorised Urban District Councils.**

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 Local Government (Pensions and Gratuities) Ordinance, No. of 1938.

Short title.

2 Any Urban District Council specified in the Schedule may, by resolution, grant a pension or gratuity, in accordance with the by-laws made in that behalf by the Council or for the time being in force, to the widow, children, next of kin or dependants of any deceased officer or servant of the Council, notwithstanding that his death had occurred prior to the date on which the by-laws took effect, if the Council is satisfied that he died while in the service of the Council and on a date not earlier than the first day of January, 1933.

Power of specified Urban District Councils to grant pensions, &c. with retrospective effect to dependants of deceased officers.

3 Any Urban District Council, authorised in that behalf by order of the Governor published in the Gazette, may, by resolution, declare that any by law made by that Council for the provision of pensions or gratuities to the widows, children, next of kin or dependants of deceased officers or servants shall be applicable retrospectively to the case of any deceased officer or servant, where the Council is satisfied that such officer or servant died while in the service of the Council and on a date not earlier than the first day of January, 1933.

Power of authorised Urban District Council to apply retrospectively by-laws for the grant of pensions, &c. to dependants of deceased officers.

4 Any Urban District Council may, in any resolution passed by that Council under section 2 or section 3, declare that any pension granted by such resolution to the widow or children of any deceased officer or servant shall be payable with effect from the date of the death of such officer or servant.

Payment of pension for period between death of officer and grant of pension.

5 This Ordinance shall be construed as one with the Local Government Ordinance, No. 11 of 1920, and shall have effect accordingly.

Construction of Ordinance.

SCHEDULE.

1. The Matale Urban District Council.
2. The Chilaw Urban District Council.

*Objects and Reasons.*

The object of this Bill is to enable the Urban District Councils of Matale and Chilaw and any other Urban District Councils which may be authorised by order of His Excellency

the Governor, to grant pensions and gratuities with retrospective effect to the dependants of deceased officers who died in the service of the Council on a date not earlier than January 1, 1933. The Bill further empowers such Councils to direct that payment of any such pension to the dependants of any deceased officer shall be made with retrospective effect from the date of the death of such officer.

S. W. R. D. BANDARANAIKE,  
Minister for Local Administration.

Colombo, October 26, 1938.

### MINUTE.

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

L. D.—O 24/38

**An Ordinance to amend the British Courts Probates (Re-sealing) Ordinance, No. 3 of 1937.**

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 British Courts Probates (Re-sealing) (Amendment) Ordinance, No.       **of 1938.**

Amendment of section 4 of Ordinance No. 3 of 1937.       **2** Section 4 of the British Courts Probates (Re-sealing) Ordinance, No. 3 of 1937, is hereby amended in paragraph (a) by the substitution for the word "paid" of the words "paid or secured".

*Objects and Reasons.*

Section 4 of the British Courts Probates (Re-sealing) Ordinance, No. 3 of 1937, requires that the court shall, before sealing a probate or letters of administration under the Ordinance, be satisfied that testamentary duty has been paid in respect of so much of the estate as is liable to such duty in Ceylon. In section 10 of the Ordinance which was amended by Schedule II. to the Estate Duty Ordinance, No. 1 of 1938, "testamentary duty" is defined to include estate duty; and a probate or letters of administration cannot therefore be re-sealed in Ceylon unless the court is satisfied that the estate duty has been paid.

The object of this Bill is to amend the principal Ordinance in order to enable a court to seal probates or letters of administration in cases where the court is satisfied that the payment of estate duty has been secured.

Colombo, October 26, 1938.

J. C. HOWARD,  
Legal Secretary.

### MINUTE.

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

L. D.—O 89/38

**An Ordinance to amend the Prevention of Crimes Ordinance, No 2 of 1926.**

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

Short title and date of operation.       **1** This Ordinance may be cited as the Prevention of Crimes (Amendment) Ordinance, No.       **of 1938,** and shall come into operation on such date as the Governor may appoint by Proclamation published in the Gazette.

Amendment of section 5 of Ordinance No. 2 of 1926.       **2** Section 5 of the Prevention of Crimes Ordinance, No. 2 of 1926, (hereinafter referred to as "the principal Ordinance"), is hereby amended as follows:—

- (1) in sub-section (2) thereof, by the substitution for all the words from "substantially in the form" to the end of the sub-section, of the following:—  
"in the prescribed form, stating whether or not the finger prints forwarded are identical with the finger prints of a registered criminal and setting out the prescribed particulars of each conviction for a crime entered against such criminal." ; and

(2) in paragraph (a) of sub-section (3) thereof, by the omission of the words "as described in sub-section (2)".

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

Replacement of section 6 of the principal Ordinance.

Procedure where a person is convicted of a crime after summary trial.

6 (1) Where any accused person is found guilty of a crime after summary trial, the Magistrate shall, notwithstanding anything in section 190 of the Criminal Procedure Code, 1898, cause the finger prints of such person to be taken and forwarded in the manner provided in sub-section (1) of section 5, and the Registrar shall issue a certificate as required by sub-section (2) of that section.

(2) If the certificate so issued declares that the accused's finger prints are identical with those of a registered criminal, the Magistrate shall read such certificate to the accused and call upon him to admit or deny separately each of the convictions set forth therein.

(3) If the accused, on being called upon under sub-section (2)—

(a) admits all the convictions set forth in the certificate, the Magistrate shall pass sentence on him according to law;

(b) declines to make any reply, or denies all or any of the convictions set forth in the certificate, the Magistrate shall, before passing sentence on him, proceed to take evidence in proof of such of the convictions as the accused does not admit.

(4) The Magistrate may, in his discretion, remand the accused or admit him to bail until the certificate issued under sub-section (1), or the evidence referred to in paragraph (b) of sub-section (3), is available to the court.

(5) In this section, "summary trial" includes a trial by a Magistrate under section 166 of the Criminal Procedure Code, 1898, or by a Magistrate, who is also a District Judge, under section 152 (3) of that Code.

4 Section 9 of the principal Ordinance is hereby amended by the substitution for the words "District Court," of the words "District Court or Magistrate's Court,".

Amendment of section 9 of the principal Ordinance.

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

Amendment of section 10 of the principal Ordinance.

(1) in sub-section (3) thereof, by the substitution for the words "under sections 5 or 6," of the words "under section 5,"; and

(2) in sub-section (5) thereof, by the substitution for the words "under sections 5 (4) or 6 (2)." in the Proviso to that sub-section, of the words "under section 5 (4)."

6 Schedule B to the principal Ordinance is hereby repealed.

Repeal of Schedule B to the principal Ordinance.

#### *Objects and Reasons.*

1. Under the Prevention of Crimes Ordinance, No. 2 of 1926, any person who has twice or oftener been convicted of a crime and sentenced to imprisonment for terms aggregating over one year, must, however trivial the crime may be with which he is subsequently charged, be committed for trial before a District Court. Where a re-convicted criminal is charged with a crime summarily triable, the procedure laid down in the Ordinance at present, involving the discontinuance of summary proceedings and the commencement of fresh non-summary proceedings by the Magistrate, is cumbrous. It further fails to secure the one result which might have justified it, namely the ultimate trial of the accused by a judge who is not aware of the fact that the accused has a bad record, for it is obvious to any District Judge that a person who is committed for trial in his court for an offence which is normally triable by a Magistrate, must be a person with previous convictions.

2. The general rule of the English law is that the court of trial is determined by the nature of the offence charged and not by the character of the accused, and the object of this Bill is to amend the principal Ordinance to secure the same result in Ceylon.

Under the new law, any person accused of a crime which the Magistrate could normally try will be tried and sentenced by the Magistrate, irrespective of the number of previous convictions which that person may have. If the case is one in which the accused has twice or oftener been convicted of crimes and sentenced to over one year's imprisonment, the Magistrate will have the same punitive powers as a District Court. Most Magistrates possess such punitive powers already, in their capacity as Additional District Judges, and exercise those powers in suitable cases to try summarily a person charged with a non-summary offence who has no previous convictions; so there does not seem to be any good reason why, merely because of the accused's previous convictions, the Magistrate should be deprived of jurisdiction. A further advantage of the new law will be that an accused with previous convictions will, in future, be tried by a judge who will not be aware of the fact that he has a bad record.

3. The new section 6 inserted in the principal Ordinance by Clause 3 of the Bill, and the amendment effected by Clause 4, are designed to achieve the object set out above. The amendments effected by the other clauses are consequential on the amendment made by Clause 3.

Colombo, October 28, 1938. D. B. JAYATILAKA,  
Minister for Home Affairs.

### MINUTE.

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

L. D.—O 22/38

No. 2 of 1932. **An Ordinance to amend the Income Tax Ordinance, 1932.**

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 Income Tax Amendment Ordinance, No. of 1932.

Amendment of section 6 (2) of Ordinance No. 2 of 1932. **2** Section 6 of the Income Tax Ordinance, 1932, (hereinafter referred to as "the principal Ordinance"), is hereby amended in paragraph (a) (i) of sub-section (2) thereof, by the substitution for the word "salary," of the words "salary leave pay,".

Amendment of section 7 (1) of the principal Ordinance. **3** Section 7 of the principal Ordinance is hereby amended, in paragraph (l) of sub-section (1) of that section, by the substitution for the words "Ceylon Government Post Office Cash Certificate," of the words "Ceylon Savings Certificate issued under the Savings Certificates Ordinance, No. 11 of 1932,".

Amendment of section 9 of the principal Ordinance. **4** Section 9 of the principal Ordinance is hereby amended by the substitution for sub-section (3) of that section of the following:—

"(3) Subject as hereinafter provided, income arising from interest shall be the full amount of interest falling due whether paid or not, without any deductions for outgoings or expenses:

Provided that—

- (a) where it appears to an Assessor that any interest is unpaid and cannot be recovered, any assessment which includes such interest shall, notwithstanding the provisions of section 75, be reduced by the amount of interest included which has been shown to be irrecoverable;
- (b) where it appears to an Assessor that any interest falling due in respect of a loan has not been received, he may exclude such interest from the assessment; and
- (c) where it appears to an Assessor that any interest which has been excluded from an assessment under paragraph (b) has subsequently been received, he shall make an assessment or additional assessment including such interest, and such assessment or additional assessment may be made and shall be valid notwithstanding that the period of limitation prescribed by section 65 has elapsed.

Any decision of an Assessor in the exercise of any discretion conferred upon him by this sub-section may be questioned in an appeal against an assessment in accordance with Chapter XI.”

5 Section 11 of the principal Ordinance is hereby amended as follows :—

Amendment of section 11 of the principal Ordinance.

(1) by the insertion, immediately after sub-section (6) of that section, of the following new sub-section :—

“(6A) For the purposes of this Ordinance, any employment carried on or exercised by any person, whether resident or non-resident, shall not be deemed to cease by reason only of the grant of leave to that person, whether such leave is granted preparatory to retirement or otherwise.”;

(2) in sub-section (9) of that section, by the substitution for all the words from “ending on that day,” to the end of that sub-section, of the words “ending on that day.”;

(3) by the substitution for sub-section (10) of that section of the following :—

“(10) Subject as hereinafter provided, the statutory income of the executor of any deceased person from the estate of that person shall be—

(a) as regards the year of assessment in which the death occurs, the profits or income of the period from the date of death to the end of that year of assessment ;

(b) as regards the year of assessment next following that in which the death occurs, the profits or income of one year from the date of death ; and

(c) as regards any subsequent year of assessment, the profits or income of the year preceding that year of assessment ;

Provided that—

(i) where the statutory income of the executor is computed on the profits or income of any period, any income of the estate proved to have been received by, distributed to, or applied to the benefit of any beneficiary of the estate during that period shall be deducted from such profits or income ;

(ii) for the year of assessment in which the distribution to the beneficiaries of the capital amount of their several interests in the estate is completed, the statutory income of the executor from the estate shall be the profits or income of the period from the first day of April of that year to the day on which such distribution is completed ; and

(iii) the provisions of sub-sections (3), (4), (5) and (6) shall not apply to any executor as regards any trade or business forming part of the estate.”;

(4) by re-numbering sub-section (11) of that section as sub-section (12) ; and

(5) by the insertion, between sub-section (10) and re-numbered sub-section (12) of that section, of the following new sub-section :—

“(11) The statutory income for any year of assessment of any beneficiary of the estate of a deceased person administered by an executor shall, subject to the provisions of sub-sections (8) and (9), be the amount of profits or income received by or distributed to him, or applied to his benefit, from the income of the estate during the year preceding that year of assessment.”.

Amendment of section 13 of the principal Ordinance.

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

(1) in paragraph (a) of sub-section (1), by the substitution, for paragraph (iv) of the proviso thereto, of the following :—

“ (iv) where, at the time of making any assessment, it appears to an Assessor that any of the said sums has not been paid, he may refuse to allow any deduction in respect of that sum ; and

(v) where it appears to an Assessor that any sum in respect of which a deduction has been refused under paragraph (iv) has subsequently been paid, he shall, on application made in writing within twelve months of such payment and supported by such proof as he may require, make an amended assessment allowing such deduction, notwithstanding the provisions of section 75 ; ” ; and

(2) by the insertion, immediately after sub-section (1), of the following new sub-section :—

“ (1A) Any decision of an Assessor in the exercise of any discretion conferred upon him by sub-section (1) may be questioned in an appeal against an assessment in accordance with Chapter XI.”.

Amendment of section 20 of the principal Ordinance.

7 Section 20 of the principal Ordinance is hereby amended as follows :—

(1) by renumbering sub-sections (9) and (10) of that section as sub-sections (10) and (11), respectively ;

(2) by the insertion, between sub-section (8) and renumbered sub-section (10) of that section, of the following new sub-section :—

“ (9) Tax shall be charged for each year of assessment at twice the unit rate upon the taxable income for that year of every executor :

Provided that where the Commissioner in his discretion considers that the whole of the tax so chargeable on an executor would be liable to be refunded under section 26, such tax shall not be charged.”.

Repeal of sections 24 and 25 of the principal Ordinance.

8 Sections 24 and 25 of the principal Ordinance are hereby repealed.

Amendment of section 26 of the principal Ordinance.

9 Section 26 of the principal Ordinance is hereby amended as follows :—

(1) by the substitution for the words “ Whenever a beneficiary ” of the words “ Notwithstanding the provisions of sub-sections (10) and (11) of section 11, where a beneficiary ” ; and

(2) by the substitution for all the words from “ for the whole period ” to the end of that section of the following :—

“ in respect of the income of the whole period extending from the date of death to the date on which the beneficiary received the capital amount of his interest in full.

The basis of such adjustment shall be the aggregate difference between—

(a) the tax (apportioned as the Commissioner in his discretion thinks reasonable) paid by the executor in respect of the beneficiary's share of the income of the estate for the said period added to the total amount of the tax paid by the beneficiary ; and

(b) the total amount of the tax which would have been paid by the beneficiary for the said period, if his assessable income for each year of assessment had included his full apportioned share of the income of the estate arising in that year.”.

*Objects and Reasons.*

The object of this Bill is to amend the Income Tax Ordinance, 1932, so as to remove certain difficulties which have arisen in the course of the administration of the Ordinance.

2. The amendments effected in the principal Ordinance by Clauses 2 and 5 (1) make it clear that the employment of a person does not cease by reason only of his absence from such employment on leave, whether the leave is granted preparatory to retirement or otherwise, and that his pay during the period of such leave continues to be profits from his employment for the purposes of the Ordinance.

3. The amendments effected in the principal Ordinance by Clauses 4 and 6 deal with income arising from interest. The provisions of section 9 (3) and 13 (1) (a) (iv) of the Ordinance do not work satisfactorily in practice because the period of three years, provided by section 65 as the period in which an additional assessment may be made, is sometimes insufficient for determining whether unpaid interest "cannot be recovered". It is also difficult to establish in terms of section 13 (1) (a) (iv), that unpaid interest "will not be paid". Further, where interest is eventually found to be irrecoverable and additional assessments for past years are made on the debtor, it not infrequently happens that he is insolvent and unable to pay the tax. The amendments in Clauses 4 and 6 provide a scheme whereby interest not actually received by the creditor will be excluded from his assessment, and will be taxed only when it has actually been received, even though more than three years have passed since the interest fell due. Similarly, the debtor will not be allowed a deduction in respect of unpaid interest. If the interest is subsequently paid, the debtor may apply to have his assessment amended, on furnishing proof that he has paid the interest, and the amount paid will then be deducted from his assessment.

4. The amendments effected by Clauses 5, 7, 8 and 9 deal with the profits and income of the estates of deceased persons and are designed to clarify the liability to tax of executors or administrators and of beneficiaries in respect of such profits and income. Section 11 (10) of the Ordinance does not make it quite clear how an executor is to be assessed as regards the year in which the capital amount of the interest of a beneficiary of the estate is distributed to him by the executor. The fact that many estates are distributed in parts and that the capital distributed sometimes consists of movable property also makes the application of this section difficult. Section 24 results in hardship to the executor in that it does not authorise a deduction from his assessment in respect of any capital distributed to a beneficiary in the first year of the executor's liability. The amendments in Clauses 5 and 7 provide a scheme whereby a beneficiary will be taxed in any year of assessment on that part of the income of the estate which was paid to or received by him in the year preceding that year of assessment, and the executor will be allowed to deduct from the amount of the profits and income of the estate all amounts paid or distributed to beneficiaries. Power is given to the Commissioner, by Clause 7, in any case in which he considers that the whole of the tax chargeable on an executor would be liable to be refunded as a result of the adjustments made under section 26, to refrain from charging such tax on the executor. Section 26 is itself amended by Clause 9 so as to make it clear that the adjustment that is eventually to be made should be calculated, in respect of each year of assessment, on the basis of the profits and income of that year of assessment.

Financial Secretary's Office,  
Colombo, November 1, 1938.

H. J. HUXHAM,  
Financial Secretary.