



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

PASSED ORDINANCES.

Ordinance enacted by the Governor of Ceylon, with the advice
and consent of the State Council thereof.

No. 63 of 1938.

L. D.—O 69/38

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

A. CALDECOTT.

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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. 63 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.

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.

Importation of rubber plants.

8 (1) The Governor may appoint—

- (a) any person, by name or by office, to be or to act as Rubber Controller ;

Appointment of Controller, officers, &c.

- (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 registered dealer 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.

Registers.

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

(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) (a) 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—

Offences.

- (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.

Service of notices, &c.

(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.

Right of inspection.

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.

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.

Passed in Council the Fourteenth day of December, One thousand Nine hundred and Thirty-eight.

E. W. KANNANGARA,
Clerk of the Council.

Assented to by His Excellency the Governor the Fifteenth day of December, One thousand Nine hundred and Thirty-eight.

E. R. SUDBURY,
Secretary to the Governor.

DRAFT ORDINANCES.

MINUTE.

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

L. D.—O 73/38

No. 1 of 1873.

An Ordinance to amend the Lunacy Ordinance, 1873.

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 Lunacy Amendment Ordinance, No. of 1938.

Amendment of section 4 of Ordinance No. 1 of 1873.

2 Section 4 of the Lunacy Ordinance, 1873, (hereinafter referred to as “the principal Ordinance”), is hereby amended by the substitution, for paragraph (2) thereof, of the following new paragraph :—

(2) “house of observation” means a building or part of a building appointed by the Governor under section 6 as a place for the observation of the behaviour of persons suspected to be of unsound mind ;

“medical officer” means a medical practitioner who is an officer of the Department of Medical and Sanitary Services ;

No. 26 of 1927.

“medical practitioner” means a person registered as a medical practitioner under the Medical Ordinance, 1927.

3 The following new section is hereby inserted immediately after section 6, and shall have effect as section 7, of the principal Ordinance :—

Insertion of new section 7 in the principal Ordinance.

7. (1) Where a District Court, holding an inquiry under section 6 into the state of mind of a suspected person, deems it necessary to subject such person to further observation, and no house of observation within the jurisdiction of the Court has been appointed by the Governor under that section, the Court (hereinafter referred to as the original Court) shall—

Continuation of inquiry after remand of a suspected person.

- (a) before remanding the suspected person for further observation, hear all such evidence as may at the time be available as to the state of mind of such person ; and
- (b) after remanding the suspected person, transmit the record of the inquiry to the District Court (hereinafter referred to as the examining Court) having jurisdiction over the place where the house of observation in which such person will be kept is situated.

(2) The examining Court, on the expiration of the time fixed for the remand—

- (a) shall continue the inquiry and hear evidence relating to the further observation to which the suspected person was subjected, and may for the purposes of such inquiry further remand such person once or oftener for similar observation ; and
- (b) shall, after consideration of all the evidence recorded at all stages of the inquiry, adjudicate on the question whether the suspected person is of sound or of unsound mind.

(3) After the expiration of the time fixed for the remand, the inquiry into the state of mind of the suspected person shall not be continued, whether by the original Court under section 6 or by the examining Court under this section, except in the presence of such person :

Provided, however, that where the state of health or the behaviour of such person is such as to render either his presence or his participation in the proceedings in a court-house undesirable, the District Court by which the inquiry is continued may either dispense with the presence of such person at the inquiry or continue the inquiry at the house of observation where such person is kept.

(4) Where the examining Court, after inquiry continued under this section, adjudges the suspected person to be of unsound mind, the Court shall direct the further detention of such person until an order under section 8 is made in respect of that person by the original Court, and shall forthwith return the record of the inquiry to the original Court to enable that Court to make such order.

(5) Where the examining Court, after inquiry continued under this section, adjudges the suspected person to be of sound mind, that Court shall make order discharging such person.

(6) Any adjudication on the question whether the suspected person is of sound or unsound mind, and any order for the further detention or the discharge of the suspected person, made by the examining Court under this section, shall be deemed for all purposes to be an adjudication or an order, as the case may be, made by the original Court, and shall have effect accordingly.

4 Section 10 of the principal Ordinance is hereby re-numbered as section 11 thereof.

Renumbering of section 10 of the principal Ordinance.

5 The following section is hereby inserted immediately after section 9, and shall have effect as section 10, of the principal Ordinance :—

Insertion of new section 10 in the principal Ordinance.

10. (1) In any case where it appears to be necessary that a person suspected to be of unsound mind should, either for his own sake or that of the public, be forthwith placed under observation, an emergency order for the immediate removal of that person to a house of observation may be issued by any Justice of the Peace before whom he is produced.

Emergency orders.

(2) The application for an emergency order shall—

- (a) in the case of a suspected person found wandering at large, be made by the police officer or headman by whom he is so found ; and

(b) in every other case, be made by the parent, guardian, spouse, brother, sister, or child, of the suspected person: Provided, however, that where a suspected person has no parent, guardian, spouse, brother, sister, or child, able to make such application, it may be made by any other relative or by a friend or a person living with the suspected person.

(3) Every application for an emergency order shall be supported—

(a) by the sworn testimony or affidavit of the applicant, stating—

(i) that the applicant has personally seen the suspected person within the forty-eight hours immediately preceding the time at which the application is made,

(ii) that that person appears to be of unsound mind, and is violent or uncontrollable, and

(iii) that the immediate removal of that person to a house of observation is necessary either for his own sake or that of the public; and

(b) by a certificate from each of two medical practitioners substantially in the form contained in the Schedule.

(4) The Justice of the Peace to whom an application for an emergency order is made, shall, before he issues the order, satisfy himself by questioning or observing the suspected person or by such other inquiry as he may deem necessary, and shall set out in the order that he is satisfied—

(a) that there is reasonable cause for suspecting that person to be of unsound mind,

(b) that that person is violent or uncontrollable, and

(c) that the immediate removal of that person to a house of observation is necessary either for his own sake or that of the public.

(5) Every emergency order issued under this section shall specify the house of observation to which the suspected person is to be removed, and shall be sufficient authority for the Superintendent of that house of observation to admit the suspected person to that house of observation and to detain him therein for a period not exceeding two weeks.

(6) The Superintendent of a house of observation shall, within twenty-four hours of the admission of a suspected person into that house of observation on an emergency order, give information of the admission to the District Court having jurisdiction over the place where the house of observation is situated, and apply for an inquiry into the state of mind of the suspected person.

(7) The provisions of sections 6 and 7 shall apply to all proceedings upon an application made under sub-section (6), and the discharge or the further detention of the suspected person shall be in accordance with such order as may be made by the Court under those sections.

(8) (i) Nothing in this section shall be deemed to prohibit the Superintendent of a house of observation from refusing to admit into that house of observation on an emergency order any person whose admission or detention appears to him to be inadvisable or unnecessary, or from discharging at any time before the commencement of the inquiry under section 6 any person admitted on an emergency order.

(ii) Where any person admitted on an emergency order is discharged under paragraph (i) of this sub-section, it shall be the duty of the Superintendent to give within twenty-four hours information of the discharge to the District Court mentioned in sub-section (6).

6 Section 14 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

14. (1) In all cases where a person of unsound mind is kept in custody and removed to a mental hospital under section 8, the Superintendent of that hospital shall forward forthwith the name of the person, and such other particulars as may be available, to the Government Agent of the Province or each of the Provinces in which that person previously resided or was found wandering.

Substitution of new section for section 14 of the principal Ordinance.

Inquiry as to property and circumstances in cases where no security is given.

(2) The Government Agent or Agents shall thereupon cause investigations to be made and shall report to the District Court, by which the person was ordered to be kept in custody, whether that person is possessed of any property which can be applied for his maintenance, or whether there is any relative or guardian who is able and legally bound to maintain that person.

(3) On receipt of the report or reports made under sub-section (2), the District Court shall hold an inquiry as to the property or such other circumstances of that person as may be referred to or set out in the report or reports.

7 The following new section is hereby inserted immediately after section 14, and shall have effect as section 15, of the principal Ordinance :—

Insertion of new section 15 in the principal Ordinance.

15. (1) If at the inquiry held under section 14, the District Court is satisfied that the person kept in custody in the mental hospital is possessed of property sufficient in value and capable of being applied for his maintenance, the Court shall—

Maintenance of persons in custody out of their own property,

(a) appoint a manager of the estate of such person or direct that the property be realised and dealt with, as provided in section 567 or section 577 of the Civil Procedure Code, 1889, as the case may be; and

No. 2 of 1889.

(b) order such portion of the property to be appropriated for the maintenance and care of that person, as may be necessary according to the allowance or rate fixed and declared to be payable under the general regulations made by the Governor for that mental hospital;

and the manager so appointed or, as the case may be, the person to whom any money or the proceeds of any property realised under the order of the Court has been paid, shall thereafter be responsible for the payment, at the rate specified in the order of the Court, of the expenses of the maintenance and care of that person while he is kept in custody in the mental hospital.

(2) Where the District Court is satisfied that the person kept in custody in the mental hospital is not possessed of any property but that there is a relative or guardian able and legally bound to maintain that person, the Court shall call upon such relative or guardian to show cause why he should not be ordered to pay the whole or any reasonable part of the expenses of the maintenance and care of that person, and if sufficient cause is not shown, the Court may make order accordingly; and every order so made shall, upon the application of the Superintendent of the mental hospital, be enforced in accordance with the provisions of section 9 of the Maintenance Ordinance, 1889, by any Police Magistrate having jurisdiction over the place of residence for the time being of the relative or guardian bound by the order.

or by persons able and legally bound to support them.

No. 19 of 1889.

8. The following Schedule shall be inserted at the end of the principal Ordinance :—

Insertion of a Schedule to the principal Ordinance.

SCHEDULE.

FORM.

Medical Certificate for the purposes of an Emergency Order under section 10 of the Lunacy Ordinance, 1873.

Date and hour of examination : _____.

Name of the suspected person : _____.

Age and sex : _____.

Address : _____.

Name and address of person producing the suspected person for medical examination : _____.

Relationship, if any, of that person to the suspected person : _____.

1. I, _____ (name) _____ (qualifications) of _____ (address), medical practitioner, do hereby certify that I have this day personally examined the suspected person above-named.

2. The following particulars relating to the suspected person were given to me at the time of the examination by _____ (name) of _____ (address) :—

(i) Previous occupation, if any : _____.

(ii) Whether married, single or widowed : _____.

(iii) Names and addresses of any near relatives now living : _____.

(iv) Whether this is the first attack : _____.

- (v) Age, if known, at time of first attack : _____.
- (vi) Whether previously treated for similar complaint, if so, when, where and by whom : _____.
- (vii) Duration of existing attack : _____.
- (viii) Supposed cause of attack : _____.
- (ix) Whether subject to epilepsy : _____.
- (x) Whether there are suicidal tendencies : _____.
- (xi) Whether known to be suffering from phthisis or any form of tubercular disease : _____.
- (xii) Whether dangerous to others and in what way : _____.
- (xiii) Whether there have been known cases of insanity in the family : _____.
- (xiv) Whether addicted to alcohol, opium, ganja, cocoaine or other drug or intoxicant : _____.

3. I have myself observed the following facts indicating unsoundness of mind in the suspected person :—

- (i) _____.
- (ii) _____.
- (iii) _____.

4. I am of opinion that the suspected person is of unsound mind and is violent*/uncontrollable and that the immediate removal of that person to a house of observation is necessary for his own sake*/for the public safety.

Signature : _____.

Date : _____.

* Strike out that one of these expressions which is inapplicable.

Substitution of the expression "mental hospital" for "lunatic asylum" in the principal Ordinance and other written law.

9 Wherever in the principal Ordinance, or in any other written law which contains any provisions relating to a place for the detention or treatment of persons suspected or found to be of unsound mind, there occurs the expression "lunatic asylum", or "asylum" or other expression equivalent thereto in that context, the expression "mental hospital" is hereby substituted, and shall be deemed for all purposes to be substituted, for such first-mentioned expression.

Objects and Reasons.

Section 6 of the Lunacy Ordinance, 1873, requires a District Court, before which a person suspected to be of unsound mind is produced, to view and examine that person and to hear evidence as to his state of mind. It is clear from this that at this part of the inquiry the suspected person must always be present in Court. But where a Court thinks it necessary to remand the suspected person for further observation, the section provides that the Court shall hear evidence after the period of the remand, but does not expressly state that at that stage of the inquiry the suspected person should be present before the Court. In practice, however, the presence of the suspected person has been insisted upon even at the stage of the inquiry which follows the remand; and as a result, persons remanded from provincial Courts for observation at the asylum at Angoda have had to be conveyed to and from these Courts on each date of inquiry. In order to avoid the necessity for these journeys, which are sometimes long and seldom harmless to persons in such state of health, it is proposed in Clause 3 of this Bill, in accordance with the recommendations set out in Sessional Paper XIX of 1925, to insert a new section in the Ordinance which will enable the District Court having jurisdiction over the place to which a suspected person is remanded for observation, to continue the inquiry into the state of mind of that person at the place of observation, to dispense with his presence at the inquiry if his state of health or behaviour renders his presence undesirable, and to adjudicate on the question whether or not that person is of unsound mind. The Court by which the inquiry is so continued will also be given power by the new section to discharge a person whom it adjudges to be of sound mind, or to order the detention of any person whom it adjudges to be of unsound mind until an order as to the further detention of that person is made under section 8 by the Court before which the suspected person was originally produced and the inquiry was commenced.

2. The object of the new section 10 which is set out in Clause 5 is to provide, in the case of suspected persons whose behaviour makes immediate confinement and care in a mental hospital advisable either for their own safety or for that of the public—

- (a) for their admission into a house of observation on emergency orders issued by a Justice of the Peace; and

- (b) for their further detention or discharge by order of a District Court after inquiry held in accordance with the existing provisions of the Lunacy Ordinance.
3. The new sections 14 and 15 which are set out in Clauses 6 and 7 are intended to relieve the public revenue of the liability for the care and the maintenance of lunatics who are themselves possessed of property or have relatives or guardians legally bound and able to support them.
4. It is proposed in Clause 9 to substitute the term "mental hospital" for the term "lunatic asylum" wherever the latter is used in the Lunacy Ordinance or in any other written law such as the Criminal Procedure Code.

Ministry of Health,
Colombo, December 15, 1938.

W. A. DE SILVA,
Minister for Health.

MINUTE.

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

An Ordinance to make provision for the establishment of Training Schools, for the detention, training and reformation of Youthful Offenders, and for purposes connected therewith.

1. Short title and date of operation.
2. Establishment of Training Schools.
3. Appointment of officers, &c.
4. Orders for detention in Training Schools.
5. Orders in respect of persons detained in approved or certified schools.
6. Warrant of commitment to Training School.
7. Application of Chapter XXX of Criminal Procedure Code to orders for detention.
8. Transfer of person from prison to Training School.
9. Release on licence of persons detained in Training Schools.
10. Supervision after term of detention in Training Schools.
11. Substitution of imprisonment for detention in Training Schools.
12. Payments to societies and persons assisting or supervising persons discharged from Training Schools.
13. Removal from one Training School to another.
14. Regulations.
15. Application of other written law.
16. Interpretation.

L. D.—O 1/36

An Ordinance to make provision for the establishment of Training Schools, for the detention, training and reformation of Youthful Offenders, and for purposes connected therewith.

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 Youthful Offenders (Training Schools) Ordinance, No. of 1938, and shall come into operation on such date as the Governor may appoint by Proclamation published in the Gazette.

Short title and date of operation.

2 (1) The Governor may by Proclamation published in the Gazette establish one or more Training Schools in which youthful offenders may be detained and be given such training and instruction and be subjected to such discipline and moral influences as will conduce to their reformation and to the repression of crime.

Establishment of Training Schools.

(2) Every Training School shall be under the general control and superintendence of the Inspector-General of Prisons.

3 (1) The Governor may appoint for every Training School a Superintendent, who shall, subject to the general direction and control of the Inspector-General, be responsible for the management of the School in accordance with the provisions of this Ordinance and of any regulations made thereunder.

Appointment of officers, &c.

(2) The Governor may appoint such other officers and servants as may be necessary for the purposes of this Ordinance.

Orders for detention in Training Schools.

4 (1) Where any male person—

- (a) is convicted by any court of any offence which according to the Second Schedule to the Criminal Procedure Code, 1898, is triable only by the Supreme Court or by a District Court; or
- (b) is convicted by any court of any offence, and a previous conviction of any offence is proved against him; or
- (c) is found by any court to have failed to observe any condition of any probation order contained in a recognizance entered into by him under Chapter XXVI of the Criminal Procedure Code, 1898.

and it appears to the court—

- (i) that the person is a youthful person; and
- (ii) that by reason of his criminal habits or tendencies or association with persons of bad character, it is expedient that he should be subject to detention under such instruction, training and discipline as would be available in a Training School,

the court may, in lieu of making any order which it is empowered to make under the provisions of any other written law, and subject to the provisions of sub-section (2), order him to be detained in a Training School for a period of three years.

(2) (a) A Court, before making an order under sub-section (1) shall call for and consider a report from the Inspector-General as to the suitability of the case for treatment in a Training School and as to the accommodation available in any such School, and shall be satisfied that the character, state of health and mental and physical condition of the offender and the other circumstances of the case are such that the offender is likely to profit by detention in a Training School.

(b) The report required under paragraph (a) may be furnished by the Inspector-General or by any person authorised by him.

(3) For the purpose of enabling a report under sub-section (2) to be furnished in respect of any offender, a court may make order remanding him, for a period of not less than fourteen and not more than twenty-one days, to custody in such one of the prisons specified in the First Schedule as is nearest to the court.

Orders in respect of persons detained in approved or certified schools.

5 (1) Where a male person who is convicted of any offence is, at the time of his conviction, detained in an approved or certified school under the provisions of any written law (otherwise than as being a person in need of care or protection), and it appears to the court that he is a youthful person, the court may order him to be detained in a Training School for a period of three years.

(2) Any order made under sub-section (1) for the detention of any person in a Training School shall supersede the order for the detention of that person in an approved or certified school.

Warrant of commitment to Training School.

6 Where a court makes an order under section 4 or section 5 for the detention of a person in a Training School, a warrant of commitment, which shall be substantially in the form set out in the Second Schedule, shall be signed by the court and shall be delivered to the Fiscal of the province in which the court is situated.

Application of Chapter XXX of Criminal Procedure Code to orders for detention.

7 Every order made under section 4 or section 5, by a District Court or a Police Court, for the detention of a person in a Training School, shall be deemed to be a judgment or final order pronounced by that court in a criminal case or matter within the meaning of section 338 of the Criminal Procedure Code, 1898; and the provisions of Chapter XXX of that Code shall apply accordingly.

Transfer of person from prison to Training School.

8 Where the Governor is satisfied that a youthful person, who is undergoing imprisonment in consequence of a sentence passed before or after the date of the commencement of this Ordinance and who has still to undergo imprisonment for a further period of not less than two years, might with advantage be detained in a Training School, the Governor may by order authorise the Inspector-General to transfer him from prison to a Training School and to detain him in such School there to serve the whole or any part of the unexpired residue of his sentence, and whilst detained in, or placed out on licence from, such a School, the provisions of this Ordinance shall apply to him as if he had been originally ordered to be detained in a Training School.

9 (1) The Executive Committee may, at any time after the expiration of one year from the commencement of any term of detention, if satisfied that there is a reasonable probability that the person detained will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from a Training School on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

Release on licence of persons detained in Training Schools.

(2) A licence granted to any person under this section shall, subject to the provisions of sub-sections (3) and (4), be in force until the term for which that person was ordered to be detained has expired.

(3) The Executive Committee may at any time revoke a licence granted to any person under this section, and upon such revocation it shall be the duty of that person to return to the Training School and if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the School.

(4) Where any person to whom a licence has been granted under this section escapes from or evades the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, that licence shall be forfeited.

(5) The Police Court of the division in which the Training School from which a person has been placed out on licence is situated or in which such a person is found may, on information on oath that the licence has been forfeited under sub-section (4) issue a warrant for his arrest, and he shall on arrest be brought before that court, and that court may, if satisfied that the licence has been forfeited, order him to be remitted to a Training School and remand him to the custody of the Fiscal of the province to be detained in the nearest prison until he can conveniently be removed to such School.

(6) The time during which a person is absent from a Training School under a licence granted under this section shall be treated as part of the term of his detention in the School:

Provided, however, that where that person has failed to return to the School on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time of his detention in the School.

(7) A licence granted under this section shall be in such form and shall contain such conditions as may be prescribed by regulations.

10 (1) Every person ordered to be detained in a Training School shall, on the expiration of the period for which he was ordered to be detained, remain for a further period of one year under the supervision of the Executive Committee.

Supervision after term of detention in Training Schools.

(2) The Executive Committee may by licence discharge from its supervision any person who is under such supervision in accordance with sub-section (1), on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(3) The Executive Committee may revoke a licence granted to any person under sub-section (2) and by order in the prescribed form recall him to a Training School, if it is of opinion that such recall is necessary for the protection and further training of such person, and may detain him in a Training School for a further period not exceeding six months.

Provided, however, that—

(a) every person so recalled shall again be discharged by licence under sub-section (2), so soon as the Executive Committee considers such discharge to be expedient ; and

(b) no person so recalled shall be detained in a Training School after the expiration of the period of one year specified in sub-section (1).

(4) A licence granted to any person under section 9 before the expiration of his term of detention in a Training School shall, on his becoming liable to be under the supervision of the Executive Committee in accordance with sub-section (1), continue in force after the date of the expiration of that term, and every such licence shall after that date be deemed to be a licence granted under sub-section (2), and the provisions of sub-section (3) shall apply accordingly.

(5) The Executive Committee may at any time order that a person under supervision under this section shall cease to be under such supervision.

Substitution of imprisonment for detention in Training School.

11 Where a person detained in a Training School is reported to the Executive Committee by the Inspector-General to be incorrigible, or to be exercising a bad influence on other inmates of the School, the Governor may, with the advice of the Executive Committee, commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Governor may determine, but in no case exceeding such unexpired residue.

Payments to societies and persons assisting or supervising persons discharged from Training Schools.

12 Where any society or person has undertaken the duty of assisting or supervising persons discharged from a Training School either absolutely or on licence, there may be paid to the society or person, as the case may be, out of funds voted by the State Council for the purpose, such sums on such conditions as the Executive Committee, may with the approval of the Governor, determine towards the expenses of the society or person incurred in connection with the persons so discharged.

Removal from one Training School to another.

13 Where a person has been ordered to be detained in any Training School, the Inspector-General may direct that person to be removed to and detained in any other Training School.

Regulations.

14 (1) The Executive Committee may make regulations for the purpose of carrying out the principles and provisions of this Ordinance.

(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) the rule and management of Training Schools ;

(b) the classification, treatment, training, instruction, employment, discipline and control of persons detained in Training Schools ;

(c) the custody, pending inquiry or trial, of youthful persons accused of any offence ;

(d) the custody of persons remanded under section 4 (3) ;

(e) the temporary custody of persons ordered to be detained in Training Schools, until arrangements can be made for their removal thereto ;

(f) the adaptation or modification of any provision of the Prisons Ordinance, 1877, or of any rule made thereunder, or of any other written law relating to prisons, in its application to Training Schools, to officers and servants employed therein, and to persons detained therein ;

(g) all matters stated or required by this Ordinance to be prescribed.

No. 16 of 1877.

(3) Every regulation made by the Executive Committee shall be brought before the State Council by a motion that such regulation shall be approved, and if so approved shall be submitted to the Governor for ratification. No regulation made by the Executive Committee shall have effect until it has been approved by the State Council and ratified by the Governor. Notification of such approval and ratification shall be published in the Gazette.

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

Application of other written law.

15 The provisions of the Prisons Ordinance, 1877, and of any rules made thereunder and of any other written law relating to prisons shall, in so far as such provisions are not inconsistent with any provision of this Ordinance or of any regulation, apply in the case of Training Schools, the officers and servants employed therein and the persons detained therein, in like manner as if such Schools were prisons established under the Prisons Ordinance, 1877.

Interpretation.

16 In this Ordinance, unless the context otherwise requires—

“ court ” includes the court of a Municipal Magistrate ;

“ Executive Committee ” means the Executive Committee of Home Affairs ;

- “Inspector-General” means the Inspector-General of Prisons ;
- “peace officer” has the same meaning as in the Criminal Procedure Code, 1898 ;
- “prescribed” means prescribed by regulation ;
- “prison” means a prison established under the Prisons Ordinance, 1877 ;
- “Prison officer” means any officer of the staff of any prison or of any Training School ;
- “regulation” means a regulation made by the Executive Committee under this Ordinance ;
- “Training School” means a Training School for youthful offenders established by the Governor under section 2 ;
- “youthful person” means a person who has attained the age of sixteen years and who has not attained the age of 22 years ; and “youthful offender” has a corresponding meaning.

FIRST SCHEDULE.

Prisons to which persons may be remanded under section 4 (3).

1. Welikade Prison, Colombo.
2. Bogambra Prison, Kandy.
3. Jaffna Prison.

SECOND SCHEDULE.

(Section 6.)

Form of Warrant of Commitment to a Training School.

In the Supreme Court of the Island of Ceylon,
(OR the District Court of _____
(OR the Police Court of _____).

Case No. _____.

WHEREAS ¹_____ was on the _____ day of _____, 19—, convicted before the above-named Court for that he did on the _____ day of _____, 19—, at _____, within the jurisdiction of this court ²_____ and thereby committed an offence punishable under ³_____, and was ordered to be detained in the Training School at _____ for a period of three years :

These are therefore to command you, the said Fiscal, to take the said ¹_____ and him safely to convey to the Training School at _____ aforesaid and there to deliver him to the Superintendent thereof together with a copy of this warrant certified under your hand.

And I do hereby command you the Superintendent of the said Training School to receive the said ¹_____ into your custody in the said Training School and there carry out the aforesaid order of detention into execution.

Given under my hand this _____ day of _____, 19—, at _____.

(Signed) _____,
Judge of the Supreme Court
(OR District Judge OR Police
Magistrate).

¹ Name in full of accused.

² State particulars of offence.

³ Specify provision of Ceylon Penal Code or of other law.

Objects and Reasons.

The object of this Bill is to provide for the establishment of Training Schools in which male offenders between the ages of sixteen and twenty-two years may be detained and subjected to similar discipline, training and influences as are

provided in the Borstal Institutions in England. The Bill gives effect to a recommendation made in Sessional Paper IX of 1935, by a Special Departmental Committee appointed to report on the administration of Prisons and the treatment of prisoners, and is modelled on the provisions of Part I of the Prevention of Crime Act, 1908, of the Imperial Parliament.

2. Clause 4 of the Bill provides that where a male person between the ages of sixteen and twenty-two years (referred to in the Bill as a "youthful person") is convicted of an indictable offence, or is upon conviction of any offence, proved to have been previously convicted, or is found to have committed a breach of any condition of a probation order, the court may, in lieu of making any order which it would otherwise be empowered to make, order the person to be detained in a Training School for a period of three years. Before such an order is made, the court is required to call for and consider a report from the Inspector-General of Prisons as to the suitability of the case for treatment in a Training School, and as to the accommodation available; provision is included in this clause for the remand of offenders for the purpose of enabling the necessary report to be furnished.

Under clause 5 a youthful male person who is detained in an approved or certified school by virtue of an order made under any other law, may if convicted of any offence be ordered to be detained in a Training School for a period of three years; and clause 8 provides for the transfer to a Training School, by order of the Governor, of a youthful male person who is serving a sentence of imprisonment and has still to undergo imprisonment for a period of not less than two years.

3. Clause 9 deals with the discharge on licence of persons detained in Training Schools. The power to release on licence will be vested in the Executive Committee of Home Affairs, and offenders so released will be placed under the supervision of persons or institutions willing to take charge of such cases. Provision is included for the forfeiture of licences and for the recall of offenders to Training Schools.

After the expiry of the period for which an offender is ordered to be detained in a Training School he will remain for a further period of one year under the supervision of the Executive Committee, unless he is discharged earlier on licence.

4. Clause 11 will enable the Governor with the advice of the Executive Committee to order the transfer to prison of a person detained in a Training School, if he is reported by the Inspector-General to be incorrigible or exercising a bad influence on other inmates of the School.

5. The power to make regulations for the purposes of the Ordinance, including the management of Training Schools and the classification, training and discipline of persons detained therein, will be vested in the Executive Committee of Home Affairs; and clause 15 provides that the provisions of the Prisons Ordinance, 1877, and of the prison rules will apply to Training Schools in so far as they are not inconsistent with the provisions of the new law or the regulations made thereunder.

Colombo, December 17, 1938. D. B. JAYATILAKA,
Minister for Home Affairs.

MINUTE.

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

L. D.—O 30/38

No. 16 of 1931.

An Ordinance further to amend the Ceylon State Mortgage Bank Ordinance, 1931.

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 Ceylon State Mortgage Bank (Amendment) Ordinance, No. of 1938.

2 Section 43 of the Ceylon State Mortgage Bank Ordinance, 1931, (hereinafter referred to as "the principal Ordinance"), is hereby amended as follows:—

Amendment of section 43 of Ordinance No. 16 of 1931.

- (a) by the re-numbering of that section as sub-section (1) of section 43;
- (b) by the substitution, in the re-numbered sub-section (1), for the words "by such advertisement as is provided in section 41", of the words "by advertisement in the Gazette"; and
- (c) by the addition at the end thereof of the following new sub-section (2):—

"(2) Before the expiry of a period of fifteen days after the date of the publication in the Gazette of any advertisement under sub-section (1), the Board shall, by notice inserted in any two newspapers published in the Island, give information that the advertisement has been published and specify the number and date of the Gazette in which it was published."

3 Section 44 of the principal Ordinance is hereby amended by the substitution for the words "the day so appointed", of the words "the day appointed by advertisement in the Gazette under section 43 (1)".

Amendment of section 44 of the principal Ordinance.

4 (1) Section 51 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

Replacement of section 51 of the principal Ordinance.

"51. (1) Save as is otherwise provided in this section, no notice of any trust in respect of any debenture shall be receivable by the Bank.

Bank not to be affected with notice of trusts.

(2) (a) Any debenture holder or any person who is an applicant for any debenture or to whom any debenture is to be transferred may, by request made in writing to the Board, require that he be described in the register of debentures as a trustee, whether under a specified instrument of trust or otherwise; and on such request being made, the Board may make such entries, in the register of debentures and in any debenture issued to such person, as the Board may consider necessary for the purpose of complying with the request.

(b) Where any request is made under paragraph (a) by a debenture holder or by a person to whom a debenture is to be transferred, the debenture shall be forwarded to the Board at the time when such request is made.

(3) Where any instrument of transfer of a debenture or any power of attorney or other document purporting to be executed by a debenture holder, who is described in the register of debentures as a trustee, is produced to the Board, the Board shall not be concerned to inquire whether the debenture holder is entitled in law to execute such instrument or other document or to give any such power; and the Board may act upon such instrument or power of attorney or document in like manner as though the debenture holder had not been described in the register as a trustee, whether or not he is so described in such instrument, power, or document and whether or not he purports to execute such instrument, power of attorney or document in his capacity as a trustee.

(4) Nothing in sub-section (2) or sub-section (3) shall, as between any trustees or as between any trustee and any beneficiary, be deemed to authorise a trustee to act otherwise than in accordance with the rules of law applicable in the case of that trustee and the terms of the instrument if any appointing him a trustee; and neither the Government of Ceylon, nor the Bank, nor any person holding or acquiring any interest in any debenture shall, by reason only of any entry in the register of debentures, or of anything in any debenture or in any document or instrument relating thereto, be affected with notice of any trust or the fiduciary character of any debenture holder or of any fiduciary obligation attaching to the holding of any debenture.

(5) In this section, "trustee" includes the executor of the last will or the administrator of the estate of a deceased person, the curator of the property of a minor, the manager of the estate of a lunatic and any person holding or intending to hold any debenture on behalf or for the benefit of any other person or body of persons."

Section 51 as amended to have retrospective effect.

(2) Every entry which was made before the date of the commencement of this Ordinance in the register of debentures kept under the principal Ordinance or in any debenture issued thereunder, and which described any debenture holder as a trustee, shall be deemed for all purposes to have been validly made in like manner as though the provisions of the new section 51, which is substituted in the principal Ordinance by this section, had been in force at the time such entry was made, and as though the entry had been duly made in accordance with the provisions of that section; and the provisions of sub-sections (3) and (4) of that section shall apply and shall be deemed to have applied accordingly in the case of every such entry.

Amendment of section 53 of the principal Ordinance.

5 Section 53 of the principal Ordinance is hereby amended in paragraph (a) of sub-section (1) by the omission of the words "five hundred".

Amendment of section 60 of the principal Ordinance.

6 Section 60 of the principal Ordinance is hereby amended as follows :—

(a) in sub-section (1), by the substitution for the words "is offered by the borrower" of the words "is offered in respect of that loan"; and

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

"(2) Where an order issued under sub-section (1) is not complied with, default shall be deemed to be made in respect of the whole of the unpaid portion of the loan and the interest due thereon up to date, and the provisions of part (iv) of this chapter shall apply accordingly."

Replacement of section 61 of the principal Ordinance.

7 Section 61 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Anticipation of payments.

"61. The Board shall accept any payment in respect of a loan before the date on which such payment is due, if notice of three months is given to the Board of the intention to make such payment."

Replacement of section 63 of the principal Ordinance.

8 Section 63 of the principal Ordinance is hereby repealed and the following section is substituted therefor :—

Procedure on default of payment.

"63. (1) Whenever default is made in the payment of any sum due on a loan, whether on account of principal or of interest or of both, default shall be deemed to have been made in respect of the whole of the unpaid portion of the loan and the interest due thereon up to date; and the Board may, by special resolution published in the Gazette, authorise any person in writing to sell the property mortgaged as security for such payment by public auction at any time not less than twenty-one days after the date on which such resolution is published, in order to recover the whole of the unpaid portion of the loan and all other expenses, charges and costs recoverable under section 64.

(2) (a) Save as otherwise provided in paragraph (b), the provisions of sub-section (1) shall apply in the case of any default notwithstanding that the borrower may have died or that any right, title or interest whatsoever in the property mortgaged to the Bank as security for the loan may have passed by voluntary conveyance or by operation of law to any other person.

(b) Where a borrower is dead and probate of his will or letters of administration to his estate have not been issued to any person, the District Court of Colombo or the District Court of the district in which the property, mortgaged to the Bank by that borrower, is situate, may, upon application made in that behalf by the Board and after service of notice of the application on such persons, if any, as the court may order, and if satisfied that the grant of probate or the issue of letters of administration is likely to be unduly delayed, appoint a person to represent the estate of the borrower for the purposes of this section; and the provisions of sub-section (1) shall not apply in the case of any default made by such borrower unless and until a person is appointed under this paragraph to represent the estate of such borrower.

(3) (a) Notice of every resolution under sub-section (1) authorising the sale of any property shall be published in the Gazette and in a daily newspaper, and copies of such

notice shall be despatched to the borrower, if he is alive, and to every person who has, in respect of that property, registered his address under the provisions of paragraphs (b) and (c) of section 103 (1).

(b) Notice of the date, time and place of every sale shall, not less than fourteen days before the date fixed for the sale, be published in the Gazette and copies of such notice shall be—

- (i) despatched to the borrower if he is alive, and to every person to whom notice of any resolution is required to be despatched under paragraph (a) ;
- (ii) posted on or near the property which is to be sold ; and
- (iii) affixed to the walls of the Kachcheri and the several District Courts and Police Courts within the jurisdiction of which the property is situate.

(4) (a) If the amount of the whole of the unpaid portion of the loan together with interest, including any penal interest due thereon, and of the moneys and costs, if any, recoverable by the Board under section 64, is tendered to the Board at any time before the date fixed for the sale, the property shall not be sold, and no further steps shall be taken in pursuance of the resolution under sub-section (1) for the sale of that property.

(b) If the amount of the instalment or equated payment in respect of which default has been made, together with any penal interest due thereon, and of the moneys and costs, if any, recoverable by the Board under section 64 is tendered to the Board at any time before the date fixed for the sale, the Board may, in its discretion, direct that the property shall not be sold, and that no further steps shall be taken in pursuance of the resolution under sub-section (1) for the sale of that property.

(5) The Board may fix an upset price below which the property shall not be sold to any person other than the Bank.

(6) In any case where two or more loans have been granted by the Bank on the security of the same property and default is made in the payment of any sum due upon any one or more of such loans, the provisions of this section shall apply notwithstanding that default may not have been made in respect of the other loan or any of the other loans, and the Board may, in any such case, by resolution under sub-section (1) authorise the sale of the property for the recovery of the total amount due to the Bank in respect of both or all the loans, as the case may be, and the provisions of this part of this chapter shall apply accordingly.

(7) Nothing in this section shall preclude the Board from recovering the amount due on a mortgage bond in accordance with the provisions of any other written law.

9 The following new section shall be inserted immediately after section 66 of the principal Ordinance and shall have effect as section 66A of that Ordinance :—

Insertion of new section 66A in the principal Ordinance.

“ 66A. (1) The purchaser of any land sold in pursuance of the provisions of section 63 shall, upon application made to the District Court of Colombo or the District Court having jurisdiction over the place where the land is situate, and upon production of the certificate of sale issued in respect of the land under section 66, be entitled to obtain an order for delivery of possession of the land.

Order for delivery of possession.

(2) Every application under sub-section (1) shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV of the Civil Procedure Code, 1889 ; and on all documents filed for the purposes of each such application and on all proceedings held thereupon, stamp duties and other charges shall be payable at the respective rates payable under any written law for the time being in force, on applications for, and proceedings connected with or incidental to, the execution of a decree of a District Court for the delivery of possession of a land of the same value as the land to which such application relates.

(3) Where the land sold in pursuance of the provisions of section 63 is in the occupancy of the debtor or of some person on his behalf or of some person claiming under a title created by the debtor subsequently to the mortgage

of the land to the Bank, the District Court shall order delivery to be made by putting the purchaser, or any person whom he may appoint to receive possession on his behalf, in possession of the land.

(4) Where the land sold in pursuance of the provisions of section 63 is in the occupancy of a tenant or other person entitled to occupy the same, the District Court shall order delivery to be made by affixing a notice that the sale has taken place, in the English and in the Sinhalese or Tamil language, in some conspicuous place on the land, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the debtor has been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall in every case be prepaid by the purchaser.

(5) Every order under sub-section (3) or sub-section (4) shall be deemed, as the case may be, to be an order for delivery of possession made under section 287 or section 288 of the Civil Procedure Code, 1889, and may be enforced in like manner as an order so made, the debtor and the purchaser being deemed, for the purpose of the application of any provision of that Code, to be the judgment-debtor and judgment-creditor, respectively.

No. 2 of 1889.

Replacement of section 103 of the principal Ordinance.

Registered address and notices.

10 Section 103 of the principal Ordinance is hereby repealed and the following section is substituted therefor:—

“103. (1) Every debenture holder and every person—

(a) to whom a loan is granted by the Bank; or

(b) who has obtained probate of the will, or letters of administration to the estate of a person to whom a loan has been granted by the Bank, or who has, under the provisions of paragraph (b) of section 63 (2), been appointed to represent the estate of a deceased borrower; or

(c) to whom any right, title or interest whatsoever in any property, or in any part of any property, mortgaged to the Bank as security for any loan, has passed, whether by voluntary conveyance or by operation of law, shall register with the Bank an address to which all notices to him may be addressed.

(2) In any case where any debenture holder or other person fails to register his address under sub-section (1), the Bank shall be absolved from all responsibility in respect of the service of any notice required under this Ordinance to be served upon such debenture holder or person:

Provided, however, that in the case of any such failure on the part of any person who is a debenture holder or a person to whom a loan has been granted by the Bank, the Bank shall publish a notice addressed to him in the Gazette and in a daily newspaper, and such notice shall be deemed to be duly given to that debenture holder or person on the day on which such notice is published.

(3) Service of any notice under this Ordinance shall be deemed to be duly effected on any person if the notice is sent by registered letter to the address registered by that person under this section and, unless the contrary is proved, the time at which the letter would be delivered in due course of post shall be deemed to be the time of the service of such notice on such person.”

Objects and Reasons.

Section 43 of the Ceylon State Mortgage Bank Ordinance, 1931, requires that the distinguishing numbers of debentures to be compulsorily redeemed under section 40 or which are drawn for such redemption under section 42 shall be declared by advertisement in the Gazette and in any two newspapers. The present practice is that the Board, in addition to such advertisement, gives written notice to the holder of each debenture which will be redeemed.

The object of Clause 2 of this Bill is to dispense with the necessity for the publication in two newspapers of the numbers of the debentures which will be redeemed. It is considered that, as a measure of economy, it will be sufficient if a notice is inserted in two newspapers calling attention to the fact that the numbers of the debentures to be redeemed appear in an advertisement published in the Government Gazette.

Clause 3 effects a minor consequential amendment in section 44 of the principal Ordinance.

2. The Trusts (Amendment) Ordinance, No. 1 of 1934, added the debentures of the Ceylon State Mortgage Bank to the list of trustee securities authorised by the Trusts Ordinance, No. 9 of 1917, and debentures have been frequently issued in

the names of persons who are described as trustees both in the debentures and in the register kept by the Bank. In view of the provisions of section 51 of the principal Ordinance, doubts have arisen as to the regularity of this practice, and it is considered advisable that the Board should be given express authority where necessary to make entries to the effect that debentures are held in trust.

The object of Clause 4 is to substitute for section 51 of the principal Ordinance a new section containing provisions similar to those set out in sections 51 (1) and 55 (3) of the Registered Stock and Securities Ordinance, No. 7 of 1937. Under the new section the Board will be empowered to make an entry in the register or in a debenture describing the holder as a trustee, but no such entry will operate to affect the Bank or the Government of Ceylon or any transferee with notice of a trust, or to require the Board to satisfy itself that a debenture holder who is described as a trustee is acting within his legal powers.

Clause 4(2) will give retrospective validity to entries which were made before the date on which the new section 51 comes into operation and which described debenture holders as trustees.

3. The object of Clause 5 of the Bill is to amend section 53 (1) of the principal Ordinance in order to reduce the minimum amount of a loan which may be granted by the Bank to Rs. 2,000.

4. Section 63 of the principal Ordinance provides a special summary procedure which enables the Board, if default is made in the payment of any sum due on a loan, to authorise the sale of any property mortgaged to the Bank as security for the loan, in order to recover the unpaid principal and interest. The Board has experienced difficulties in the application of this procedure in cases where the borrower is dead or where any right, title or interest in the mortgaged property has vested in some other person. It is therefore necessary that the present provisions should be amplified so as to facilitate their application to the cases referred to.

The object of Clause 8 of this Bill is to replace section 63 by a new section which declares that the power of sale may be exercised in cases where the borrower is dead or where any right, title or interest in the mortgaged property has vested in some other person. Notice of a resolution for the sale of property will be required to be despatched to the executor of the will or to the administrator of the estate of a deceased borrower; and where no executor or administrator has been appointed, the District Court will be empowered to appoint a representative of the estate of the deceased for the purposes of the section. If any person in whom any right, title or interest in the property has vested has registered his address with the Bank, notice of any resolution for the sale of that property will be sent to him.

Clauses 6 and 7 will effect consequential amendments in sections 60 and 61.

5. The substitution of a new section 63 in the principal Ordinance necessitates the replacement of the existing section relating to the registration of addresses.

The object of Clause 10 of this Bill is to substitute for section 103 a new section providing for the registration of an address by an executor or administrator or by a person appointed to represent the estate of a deceased borrower, as well as by a person in whom any right, title or interest in a mortgaged property has vested. Failure to register an address will absolve the Bank from the necessity to send a notice.

6. Section 66 of the principal Ordinance provides for the issue of a certificate of sale to the purchaser of land which is sold under the summary procedure for the recovery of principal and interest due on a loan. The certificate vests in the purchaser all the right, title and interest of the debtor to and in the land. The Ordinance does not, however, contain any provision as to the delivery of possession of the land to the purchaser.

The object of Clause 9 is to insert in the principal Ordinance a new section 66A which will enable an application for an order for delivery of possession to be made to the District Court of Colombo or of the district in which the land is situated. Sub-sections (3) and (4) of the new section are based on sections 287 and 288, respectively, of the Civil Procedure Code, 1889, and an order made by a District Court will be enforced as if it were an order made under one of those sections for delivery of possession of land.

MINUTE.

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

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| | L. D.—CF 22/38 |
| No. 15 of 1898. | An Ordinance to amend the Criminal Procedure Code, 1898. |
| | 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 Criminal Procedure Code (Amendment) Ordinance, No. of 193 . |
| Amendment of section 100 of Ordinance No. 15 of 1898. | 2 Section 100 of the Criminal Procedure Code, 1898, (hereinafter referred to as “ the principal Ordinance ”), is hereby amended by the substitution, for all the words from “ in Her Majesty’s army ” to “ acting as such ”, of the words— “ of His Majesty’s Regular Forces or an officer or soldier of the Defence Force who is on active service within the meaning of the Defence Force Ordinance, 1910 ”. |
| Amendment of section 102 of the principal Ordinance. | 3 Section 102 of the principal Ordinance is hereby amended in sub-section (1) thereof by the substitution, for all the words from “ commissioned ” to “ provisions of any law ”, of the words— “ officer or non-commissioned officer in command of any soldiers of His Majesty’s Regular Forces or of any soldiers of the Defence Force who are on active service within the meaning of the Defence Force Ordinance, 1910,”. |
| Amendment of section 103 of the principal Ordinance. | 4 Section 103 of the principal Ordinance is hereby amended by the substitution, for the words “ Her Majesty’s army ”, of the words “ His Majesty’s Regular Forces ”. |
| Amendment of section 104 of the principal Ordinance. | 5 Section 104 of the principal Ordinance is hereby amended as follows :— (1) by the substitution for the words “ or any military officer, peace officer, soldier, or soldiers of the Defence Force ”, of the words— “ or any peace officer or any officer or soldier of His Majesty’s Regular Forces or of the Defence Force ” ; (2) in paragraph (d), by the substitution, for the words “ No inferior officer or soldier or soldier of the Defence Force ”, of the words— “ No officer or soldier of His Majesty’s Regular Forces or of the Defence Force ”. |
| Insertion of new section 104A in the principal Ordinance. | 6 The following new section is hereby inserted immediately after section 104, and shall have effect as section 104A, of the principal Ordinance :— |
| Interpretation. | 104A. In this Chapter— “ Army Act ” means the Army Act of the Imperial Parliament read with any other Act for the time being amending that Act and includes the Articles of War or Rules made and in force for the time being thereunder ; “ Defence Force ” means the Defence Force formed or maintained in Ceylon under the provisions of the Defence Force Ordinance, 1910 ; “ His Majesty’s Regular Forces ” has the same meaning as in the Army Act. |

Objects and Reasons.

Sections 100 and 104 of the Criminal Procedure Code, 1898, mention only soldiers, that is to say, the privates, of the Defence Force, where the officers should also be included ; and it is therefore proposed in Clauses 2 and 5 of this Bill to make the necessary amendments in those sections.

The object of the amendment set out in Clause 3 is to make it clear that any part of the Defence Force, which has been duly called out for active service by Proclamation under section 13 of the Defence Force Ordinance, 1910, can be required to disperse an unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace.

The opportunity has also been taken to replace the archaic expression "Her Majesty's army", in the sections referred to, by the expression "His Majesty's Regular Forces" which is now used in the English Acts. The same amendment is to be made, for the sake of uniformity in section 103 also (Clause 4).

Clause 6 introduces a new section 104A setting out some definitions which appear to be necessary.

Colombo, December 12, 1938.

J. C. HOWARD,
Legal Secretary.