



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART I.—GENERAL.

GOVERNMENT NOTIFICATIONS.

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THE MOTOR CAR ORDINANCE, No. 45 OF 1938.

REGULATIONS made by the Executive Committee of Local Administration under sections 149 and 174 of the Motor Car Ordinance, No. 45 of 1938, approved by the State Council and ratified by the Governor by virtue of the powers vested in him by the said section 174.

Colombo, February 27, 1939.

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

Regulations.

1. These regulations may be cited as the Motor Car (Third Party Risks) Regulations, 1938.
2. In these regulations, unless the context otherwise requires—
 - “guarantor” means any person or body of persons authorized under section 129 of the Ordinance to give securities;
 - “insurer” means a person or body of persons carrying on in Ceylon or in any other part of the British Empire the business of motor car insurance, that is to say, the business of effecting contracts of insurance against loss of or damage to, or arising out of or in connection with the use of motor cars, including third party risks;
 - “policy” means a policy of insurance issued in respect of third party risks arising out of the use of motor cars, which complies with the requirements of Part VIII. of the Ordinance, and includes a covering note;
 - “security” means such security in respect of third party risks arising out of the use of motor cars, as complies with the requirements of Part VIII. of the Ordinance;
 - “the Ordinance” means the Motor Car Ordinance, No. 45 of 1938.

PART I.

Authorized Insurers.

1. Every application by an insurer to be authorized to issue policies of insurance for the purposes of Part VIII. of the Ordinance shall be made to the Commissioner and shall be accompanied by—

- (1) a certified copy of the memorandum and articles of association, or of the deed of partnership or the deed of constitution, as the case may be, of the insurer's business ;
- (2) the following statements in respect of the insurer's insurance business during the financial year immediately preceding the date of the application :—
 - (a) a revenue account substantially in Form 1 in Schedule I. ;
 - (b) a profit and loss account substantially in Form 2 in Schedule I. ;
 - (c) a balance sheet substantially in Form 3 in Schedule I. ;
- (3) a certificate signed by an auditor that the accounts specified in paragraph (2) have been audited by that auditor and found to be correct, that the balance sheet has been properly drawn up so as to exhibit a true and correct statement of the insurer's affairs according to the best of the information and explanations given to the auditor and as shown by the books of the insurer, and that the investments and cash at the Banks in respect of the insurer's business have been verified by the auditor.

2. Where it appears to the Executive Committee that the accounts and balance sheet delivered under regulation 1 by any applicant do not disclose a true and correct statement of the insurance business of the applicant, or that, having regard to the financial aspects and volume of such business, the applicant cannot conduct the business of an authorized insurer in a satisfactory and efficient manner, the Executive Committee may—

- (a) refuse to authorize the applicant to be an authorized insurer for the purposes of Part VIII. of the Ordinance ; or
- (b) authorize the applicant to be an authorized insurer on his making a deposit equal in value to such amount, not being less than fifteen thousand rupees and not more than one hundred and fifty thousand rupees, as the Executive Committee shall determine.

3. Where any person who or body of persons which, makes application to be authorized to issue policies of insurance for the purposes of Part VIII. of the Ordinance, is not at the time of the application carrying on the business of insurance in Ceylon or in any other part of the British Empire, the application shall not be granted unless an Ordinance for the regulation and supervision of the business of insurance is at that time in operation in Ceylon.

4. (1) Every authorized insurer shall before the expiry of a period of six months after the end of each financial year, forward to the Commissioner a revenue account, a profit and loss account and a balance sheet, together with a certificate of the like nature as is mentioned in regulation 1 (3) in this Part, in respect of the insurer's insurance business during that financial year :

Provided, however, that the Commissioner may, in his discretion, permit any insurer to furnish the accounts and balance sheet required under this paragraph after the expiry of the period hereinbefore mentioned.

(2) the revenue account and the profit and loss account and the balance sheet furnished under paragraph 1, shall be substantially in such one of the Forms 1, 2, and 3 in the Schedule I. as may be appropriate to the case.

5. (1) Where, upon examination of the documents furnished under regulation 4 in respect of any financial year by an authorized insurer, it appears to the Executive Committee that the documents do not disclose a correct statement of the insurance business of the insurer or that, having regard to the financial aspects and volume of such business the insurer cannot carry on such business in a satisfactory and efficient manner, the Executive Committee may—

- (a) cancel the authority granted to that insurer ; or
- (b) require as a condition of the continuation of such authority, that the insurer shall make a deposit equal in value to such amount, not being less than fifteen thousand rupees and not more than one hundred and fifty thousand rupees, as the Executive Committee shall determine, or, where he has already made a deposit that he shall make a further deposit, but so that the value of the total deposits required to be made by any insurer shall not exceed one hundred and fifty thousand rupees.

(2) Where any authority granted to an insurer is cancelled under this regulation, such cancellation shall not be deemed in any way to affect the validity of any policy or security or of any certificate of insurance or of security issued by that insurer before the date of such cancellation.

(3) Where upon examination of the documents furnished under regulation 4 in respect of any financial year by an authorized insurer who has made a deposit with the Deputy Financial Secretary under these regulations, the Executive Committee is satisfied that the business of that insurer is carried on in such a manner, and that the financial position of the insurer is such, that the return to that insurer of the whole or a part of the deposit so made will not be detrimental to the interests of the public, the Executive Committee may cause the whole or any specified part, as the case may be, of the deposit to be returned to the insurer :

Provided, however, that where the whole or any part of a deposit has been returned at any time to any insurer nothing hereinbefore contained shall be deemed to prevent the Executive Committee from exercising at any other time in relation to that insurer the powers conferred by paragraph (1) of this regulation.

(4) In this regulation " value of a deposit "—

- (a) where a deposit consists of money, means the amount of the money deposited ;
- (b) where a deposit consists of securities, means the current market value of the securities at the time when the value is to be ascertained ;
- (c) where a deposit consists partly of money and partly of securities, means the amount of the money and the market value of the securities at the time when the value is to be ascertained.

6. (1) Every deposit required to be made by an insurer under these regulations shall be made with the Deputy Financial Secretary, and may consist of money or of securities approved by the Deputy Financial Secretary or partly of money and partly of such securities.

(2) Where money is deposited with the Deputy Financial Secretary by any insurer for the purposes of these regulations, interest at the rate of one per centum per annum shall be paid to him annually by the Deputy Financial Secretary ; and where securities are deposited by any insurer, the interest or dividends, if any, accruing thereon, shall be made over to the insurer by the Deputy Financial Secretary.

7. The Executive Committee may upon application made by the Committee of the Corporation of Lloyd's of London authorize all underwriters who are members of that Corporation and who carry on the business of effecting contracts of insurance against loss of or damage to, or arising out of, or in connection with the use of, motor vehicles, including third party risks, to issue policies of insurance for the purposes of Part VIII. of the Ordinance ; and where such authority is granted, nothing in this Part of these Regulations shall apply in the case of any such underwriter :

Provided, however, that every such underwriter who carries on such business in Ceylon shall furnish to the Commissioner before July 1 in each year a certificate signed by the Chairman of the Committee of Lloyd's and by the Board of Trade in London to the effect that the underwriter has during the preceding year complied in all respects with the requirements of the Assurance Companies Act, 1909, of the Imperial Parliament.

PART II.

Certificates of insurance or of security.

1. (1) A policy of insurance relating to the use of any motor car shall be of no effect for the purposes of Part VIII. of the Ordinance unless there is issued by the insurer to the person by whom the policy is effected—
 - (a) in the case of a policy relating to the use of a specified car or two or more specified cars, a certificate of insurance substantially in Form 1 in Schedule II. in respect of each such car ;
 - (b) in the case of a policy not relating to any specified car or cars, such number of certificates substantially in Form 2 in Schedule II. as may be necessary to enable the requirements of section 132 (1) of the Ordinance as to the production of evidence that a motor car is not being driven in contravention of section 127 of the Ordinance to be complied with.

(2) Where a policy of insurance is issued in the form of a covering note, the certificate of insurance issued in connection therewith shall be printed on the note or on the back thereof, and shall be substantially in Form 3 in Schedule II.
2. A security relating to the use of any motor car shall be of no effect for the purposes of Part VIII. of the Ordinance unless there is issued by the insurer or guarantor to the person to whom the security is given—
 - (a) in the case of a security relating to a specified car or two or more specified cars, a certificate of security substantially in Form 4 in Schedule II. in respect of each such car ;
 - (b) in the case of a security not relating to any specified car or cars, such number of certificates substantially in Form 4 set out in Schedule II. as may be necessary to enable the requirements of section 132 (1) of the Ordinance as to the production of evidence that a motor car is not being driven in contravention of section 127 of the Ordinance to be complied with.
3. Every certificate of insurance or certificate of security shall be duly authenticated by or on behalf of the insurer or guarantor by whom the certificate is issued.
4. Where, under the terms of a policy or security relating to a specified car, any person named therein is entitled to drive any car other than that specified without contravention of section 127 of the Ordinance, the insurer or guarantor by whom the policy or security was issued shall indicate by an appropriate entry made in the certificate issued under these regulations in connection with the policy or security, the car or cars (other than the specified car) which such person is entitled to drive, and shall on demand made by the holder of the policy or security issue a further certificate of insurance or of security substantially in Form 1 or Form 4 in Schedule II. as the case may be.
5. (1) Where the driver of any motor car belonging to the Crown or a local authority is called upon, under section 132 of the Ordinance to produce a certificate of insurance or of security, the production by him of a certificate in Form 5 in Schedule II. signed by an authorized officer or by the Chairman of the local authority, as the case may be, shall be proof that the motor car is not being used or driven in contravention of the provisions of section 127 of the Ordinance.
 - (2) It shall be the duty of any authorized officer or of the Chairman of a local authority, who issues any certificate in Form 5 in Schedule II. in respect of any motor car, to cause the certificate to be destroyed when the motor car ceases to be the property of the Crown or of the local authority, as the case may be.
 - (3) Every authorized officer and every Chairman of a local authority who issues any certificate in Form 5 in Schedule II. shall keep and maintain a register setting out the date on which each such certificate was issued and the distinctive number of the motor car to which the certificate relates, and shall produce the register for inspection whenever required to do so by the Commissioner or by any police officer of a rank not below that of Assistant Superintendent of Police.
 - (4) In this regulation, "authorized officer" means the Head of a Department of Government and includes any officer authorized by the Head of a Department to issue certificates in Form 5 in Schedule II.
6. (1) Every certificate, other than a certificate in Form 5, which is issued in pursuance of Part VIII. of the Ordinance or of these regulations shall be printed and completed in black on white paper.
 - (2) No certificate so issued shall contain any advertising matter either on the face or on the back thereof :
 Provided that the name and address, or a reproduction of the seal, or any monogram or similar device, of the insurer or guarantor by whom a certificate is issued, or the name and address of an insurance broker or insurance agent, shall not be deemed to be advertising matter for the purposes of this regulation, if it is printed or stamped at the foot or on the back of the certificate.
7. (1) Every insurer or guarantor by whom a policy of insurance or a security is issued shall keep a record of the following particulars relative thereto and of each certificate issued in connection therewith :—
 - (a) the full name and address of the person to whom the policy, security or certificate is issued ;
 - (b) in the case of a specified car or cars, the distinctive number of the motor car or each of the motor cars to which the policy or security relates ;
 - (c) the date on which the policy or security comes into force and the date on which it is due to expire ;
 - (d) in the case of a policy, the conditions subject to which the persons or classes of persons specified in the policy will be indemnified ;
 - (e) in the case of a security, the conditions subject to which the undertaking given by the guarantor under the security will be implemented.

(2) Every such record shall be preserved for one year from the date of the expiry of the policy or security, and the insurer or guarantor by whom the record is kept shall on demand made by the Commissioner or by any police officer of a rank not below that of Assistant Superintendent of Police, furnish, free of charge, any particulars required to be entered in the record.
8. Where to the knowledge of any insurer or guarantor, a policy or security issued by him ceases to be effective without the consent of the person to whom the policy or security was issued or given and otherwise than by death or effluxion of time, the insurer or guarantor shall forthwith notify the Commissioner of the date on which the policy or security ceased to be effective.
9. Where, with the consent of the person to whom it was issued, a policy or security is transferred or suspended or ceases to be effective otherwise than by effluxion of time, such person shall forthwith return any relative certificates to the insurer or guarantor by whom they were issued, and a new policy or security shall not be issued to that person, nor shall the said policy or security be transferred to any other person unless and until the certificates have been so returned, or until the insurer or guarantor is satisfied that they have been lost or destroyed.
10. Where any insurer or guarantor by whom a certificate of insurance or a certificate of security has been issued is satisfied that such certificate has become defaced or has been lost or destroyed, the insurer or guarantor shall, if requested so to do by the person to whom the certificate was issued, issue to him a fresh certificate.

SCHEDULE I.

FORM 1.

Motor Insurance Account.

Revenue Account for the year ended _____.

Motor Insurance Fund at beginning of year		Claims Paid (Less recoveries)	
Reserve for unexpired risks :		Commission	
Reserve for outstanding claims :		Expenses of Management	
		Transfer to Profit and Loss Account	
Premiums (Less Reinsurance) :		Motor Insurance Fund at end of year, as per	
Interest on Fund :		Balance Sheet	
Less Tax :		Reserve for Unexpired risks being	
		40 per cent. of Premium Income	
		for year :	
		Estimated Liability for outstanding	
		claims :	

FORM 2.

Profit and Loss Account.

For the Year ended _____.

Balance of last year's Account		Transfer to General Reserve Fund	
Interest not credited to other accounts		Transfer to Furniture and Machinery reserve	
Less Tax		Transfer to Leasehold Redemption Reserve	
		Staff Pension Trustees	
Transfer from—		Written off Furniture and Machinery	
Fire Insurance Account		Income Tax and N. D. C. Paid and Reserved	
Accident Insurance Account		Audit Fees and Legal charges	
Employers' Liability Insurance		Directors' Fees	
Account		Balance to Balance Sheet	
Motor Insurance Account			
Less transfer to—			
General Insurance Account			

FORM 3.

Balance Sheet.

LIABILITIES.	ASSETS.
Shareholders' Capital	Mortgages—
Motor Insurance Fund	_____
General Reserve Fund	_____
Property Reserve	_____
Leasehold Redemption Reserve	Investments at or below Market Price—
Furniture and Machinery Reserve	_____
Sundry Creditors, including Agents and Re-	_____
serves	_____
Due to Reinsurers	Agents' Balances
Reserved for Income Tax and N. D. C.	Outstanding Premiums
Balance on Profit and Loss Account as at	Interest accrued but not payable
_____ 19—	Bills Receivable
	Cash :—
	On Deposit
	In hand and on current account

SCHEDULE II.

FORM I.

(The Motor Car Ordinance, No. 45 of 1938.)

Certificate of Insurance.

Certificate No. _____.

Policy No. _____.
(Optional.)

1. Distinctive Number of Car : _____.
2. Name of Policy Holder : _____.
3. Address of Policy Holder : _____.
4. Effective date of the commencement of insurance for the purposes of the Ordinance : _____.
5. Date of expiry of insurance : _____.
6. Persons or classes of persons, entitled to drive : _____.
7. Description of cars (other than that specified in item 1) the use of which is authorized by the policy and names of persons who may drive such cars : _____.

*8. The Policy contains conditions—

- †(a) which exclude the use of the car for the following purposes ———;
- †(b) which exclude driving of the car by ———;
- †(c) which exclude liability for injury caused or contributed to by conditions of war, riot, or civil commotion ———.

I/We hereby certify that the Policy to which this Certificate relates is issued in accordance with the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938.

Place : ———.

Date : ———.

_____,
(Authorized Insurer.)

* Conditions rendered inoperative by the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938, are not to be included under this heading.

† Strike out if inapplicable.

FORM 2.

(The Motor Car Ordinance, No. 45 of 1938.)

Certificate of Insurance.

Certificate No. ———.

Policy No. ———.
(Optional.)

1. Distinctive Numbers or description of cars : ———.
2. Name of holder of policy : ———.
3. Address of holder : ———.
4. Effective date of the commencement of policy for the purposes of the Ordinance : ———.
5. Date of expiry of policy : ———.
6. Persons or classes of persons entitled to drive : ———.

*7. The policy contains conditions—

- †(a) which exclude the use of the car/s for the following purposes ———;
- †(b) which exclude driving of the car/s by ———;
- †(c) which exclude liability for injury caused or contributed to by conditions of war, riot, or civil commotion ———.

I/We hereby certify that the Policy to which this Certificate relates is issued in accordance with the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938.

Place : ———.

Date : ———.

_____,
(Authorized Insurer.)

* Conditions rendered inoperative by the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938, are not to be included under this heading.

† Strike out if inapplicable.

FORM 3.

(The Motor Car Ordinance, No. 45 of 1938.)

Certificate of Insurance.

I/We hereby certify that this covering note is issued in accordance with the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938.

_____,
(Authorized Insurer.)

Place : ———.

Date : ———.

FORM 4.

(The Motor Car Ordinance, No. 45 of 1938.)

Certificate of Security.

Certificate No. ———.

Security No. ———.
(Optional.)

1. Name of holder of Security : ———.
2. Address of holder of Security : ———.
3. Effective date of the commencement of security for the purposes of the Ordinance : ———.
4. Date of expiry of Security : ———.

*5. The Security contains conditions—

- †(a) which exclude the use of the car/s for the following purposes ———;
- †(b) which exclude driving of the car/s by ———;
- †(c) which exclude liability for injury caused or contributed to by conditions of war, riot, or civil commotion ———.

I/We hereby certify that the security to which this Certificate relates is issued in accordance with the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938.

Place : ———.

Date : ———.

_____,
(Guarantor.)

* Conditions rendered inoperative by the provisions of Part VIII. of the Motor Car Ordinance, No. 45 of 1938, are not to be included under this heading.

† Strike out if inapplicable.

FORM 5.

(The Motor Car Ordinance, No. 45 of 1938.)

Certificate of Ownership by a Head of a Department or Local Authority.

I hereby certify that the motor car to which the distinctive number _____ has been assigned by the Commissioner of Motor Transport, is the property of _____.

Place : _____.

Date : _____.

Head of _____ Department.
Chairman _____.