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PART II.—LEGAL.

DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to amend the Motor Car Ordinance, No. 45 of 1938, to postpone the operation of that Ordinance, and to make special provision for the issue of licences for motor cars in the year 1939.

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 Motor Car Amendment Ordinance, No. of 1939. Short title.

POSTPONEMENT OF OPERATION OF ORDINANCE
No. 45 OF 1938.

2 Notwithstanding anything contained in sub-section (1) of section 1 of the Motor Car Ordinance, No. 45 of 1938, (hereinafter referred to as "the principal Ordinance"), or in the Proclamation made under that sub-section and published in Gazette Extraordinary No. 8,403 of October 8, 1938, the first day of July, 1939, is hereby appointed to be the date on which that Ordinance shall come into operation; and any reference in that Ordinance to the "appointed date" shall be deemed to be a reference to the first day of July, 1939. Ordinance
No. 45 of 1938
to come into
operation on
July 1, 1939.

3 The provisions of the principal Ordinance which are mentioned in the Schedule to the Proclamation published under sub-section (2) of section 1 of that Ordinance in Gazette Extraordinary No. 8,404 of October 8, 1938, and which were by that Proclamation brought into operation on the tenth Operation before
the appointed
date of certain
provisions of
the principal
Ordinance.

day of October, 1938, shall be deemed to have been brought into operation for the purpose of the issue before the first day of July, 1939, of licences to be in force on and after that date; and all appointments and all regulations heretofore made under any of the aforesaid provisions shall be deemed to have been made for that purpose and shall have effect accordingly until the thirtieth day of June, 1939.

SPECIAL PROVISIONS RELATING TO MOTOR CAR
LICENCES FOR 1939.

Licences under
Ordinance
No. 20 of 1927
for period April
to June, 1939.

4 (1) Notwithstanding anything contained in the Motor Car Ordinance, 1927—

- (a) every licence issued for a motor car under that Ordinance before the thirtieth day of June, 1939, in respect of any period commencing on or after the first day of April, 1939, shall be expressed to be in force until and shall cease to be in force on the thirtieth day of June, 1939;
- (b) the amount of the duty payable on any such licence for any motor car shall be one-fourth of the duty prescribed by that Ordinance for a motor car of that class or description;
- (c) if the motor car is a hiring car or lorry, no examination of the car shall be required prior to the issue of a licence unless the Registrar considers it necessary, and where any such car is examined no fee shall be payable for such examination:

Provided, however, that where a licence is issued on or after the first day of June, 1939, and it is shown to the satisfaction of the licensing authority that the motor car for which the licence is required has not been unlawfully used or possessed between the thirty-first day of March, 1939, and the date of the issue of the licence, the amount of the duty payable on the licence shall be one-sixth of the duty prescribed by that Ordinance for a motor car of that class or description.

(2) Where the holder of any licence referred to in sub-section (1) surrenders the licence to the licensing authority for cancellation, he shall be entitled—

- (a) where the licence is surrendered on any date in April, 1939, to a refund of two-thirds of the amount of the duty paid on that licence; or
- (b) where the licence is surrendered on any date in May, 1939, to a refund of one-third of the amount of the duty paid on that licence.

(3) Save as otherwise expressly provided in this section, every motor car licence to which this section relates shall be issued in accordance with the requirements of the Motor Car Ordinance, 1927; and the provisions of that Ordinance shall apply accordingly.

Applications for
licences for
omnibuses and
lorries to be in
force on and
after the
appointed date.

5 (1) (a) Every application for a licence for an omnibus or a lorry to be in force on and after the first day of April, 1939, which was included in the old list of applications for licences for omnibuses or in the old list of applications for licences for lorries, as the case may be, shall be deemed to be an application for a licence to be in force on and after the appointed date; and no new application in respect of any such omnibus or lorry shall be required to be made under sub-section (2), or be entertained by the Commissioner.

(b) Every objection, duly made to the Commissioner on or before the sixth day of January, 1939, under section 46 of the principal Ordinance, against the issue of a licence to any person whose application therefor was included in either of the old lists, shall be deemed to be an objection duly made against the issue to that person of a like licence to be in force on and after the appointed date; and, save as otherwise provided in sub-section (2) (e), no further objection may be made against the issue of any licence in any case where the application therefor was included in either of the old lists.

(2) (a) Subject to the provisions of sub-section (1) (a), any person may, on or before the thirty-first day of March, 1939, make application under the principal Ordinance for a licence for an omnibus or a lorry to be in force on and after the appointed date.

(b) Every licensing authority to whom any application is made under paragraph (a) of this sub-section shall forward the application to the Commissioner on or before the twelfth

day of April, 1939, together with the recommendation made by that authority under the provisions of section 45 of the principal Ordinance.

(c) The Commissioner shall on or before the twenty-second day of April, 1939, cause to be published and affixed, in accordance with the provisions of section 46 (1) of the principal Ordinance, lists of all such applications for licences as are forwarded to him under the provisions of paragraph (b) of this sub-section, and shall specify on each such list a date on or before which objections may be made to the issue of such licences.

(d) Any licensing authority, and any person whose application for a licence was included in any of the old lists, or is included in any of the new lists published under paragraph (c) of this sub-section, shall be entitled to make objection under and in accordance with the provisions of section 46 of the principal Ordinance, against the issue of any licence the application for which is included in any of the new lists.

(e) Any person whose application for a licence is included in any of the new lists shall be entitled to make, on or before the date specified in such list, objection under and in accordance with the provisions of section 46 of the principal Ordinance, against the issue of a licence to any other person if the application therefor was included in either of the old lists; and no such objection shall, if it is otherwise duly made, be rejected by the Commissioner on the ground that it has been made after the sixth day of January, 1939.

6 (1) In every case where a new licence, expressed to come into force on the appointed date, is to be issued for any motor car under the provisions of the principal Ordinance, and the licensing authority is satisfied that the motor car has not been unlawfully used or possessed between the first day of April, 1939, and the date of the issue of the licence, then, notwithstanding anything contained in the principal Ordinance—

(a) the duty payable on the new licence shall be one half of the duty prescribed by the principal Ordinance for a yearly licence for a motor car of that class or description;

(b) if the motor car is a hiring car or lorry no fee shall be payable for the examination of the car prior to the issue of the new licence.

(2) Section 3 of the Motor Car Licences (Transitional Arrangements) Ordinance, No. 58 of 1938, is hereby repealed.

7 Save as otherwise expressly provided in this Ordinance, the provisions of the principal Ordinance shall apply in all matters relating to applications for licences for motor cars to be in force on and after the appointed date, and to the issue of such licences.

AMENDMENTS OF ORDINANCE NO. 45 OF 1938.

8 Section 128 of the principal Ordinance is hereby amended in sub-section (1) as follows:—

(1) in paragraph (b)—

(a) by the substitution for the words “insures such person” of the words “insures, in accordance with the provisions of paragraph (c), such person”;

(b) by the substitution for the word “highway:” of the words “highway; and”; and

(2) by the insertion, immediately after paragraph (b), of the following new paragraph (c):—

“(c) (i) in the case of a hiring car, covers the liability referred to in paragraph (b) up to an amount which shall not be less than five thousand rupees in respect of each passenger authorised to be carried therein, and thirty thousand rupees in respect of persons other than passengers; or

(ii) in the case of a lorry, covers the liability referred to in paragraph (b) up to an amount which shall not be less than thirty thousand rupees; or

(iii) in the case of any other motor car, covers any liability referred to in paragraph (b) which may actually be incurred.”

Fee for licences under the principal Ordinance for the period July to December, 1939.

Repeal of section 3 of Ordinance No. 58 of 1938.

Provisions of Principal Ordinance to have effect unless inconsistent with this Ordinance.

Amendment of section 128 of principal Ordinance.

Amendment of section 129 of the principal Ordinance.

9 Section 129 of the principal Ordinance is hereby amended in sub-section (1) as follows:—

- (1) by the substitution for the words "a security must—", of the words "a security in relation to the use of a motor car must—";
- (2) by the substitution, for paragraph (b), of the following paragraph:—

"(b) consist of an undertaking by the giver of the security, subject to any conditions specified therein, to make good, up to the amount prescribed by section 128 (1) (c) in the case of a policy of insurance relating to a motor of that class, any failure on the part of the owner of the motor car, or such other persons or classes of persons as may be specified in the security, duly to discharge any such liability, required by section 128 (1) to be covered by a policy of insurance, as may be incurred by him or them".

Minor amendments of the principal Ordinance.

10 The provisions of the principal Ordinance mentioned in the first column of the Schedule to this Ordinance are hereby amended in the manner and to the extent specified in the corresponding entries in the second column of that Schedule.

Interpretation.

11 In this Ordinance, unless the context otherwise requires—

"appointed date" means the first day of July, 1939, appointed by section 2 as the date on which the principal Ordinance shall come into operation;

"new list", in relation to applications for licences for omnibuses or to applications for licences for lorries, means any list of such applications published under section 5 (2) (c) of this Ordinance;

"old list", in relation to applications for licences for omnibuses or to applications for licences for lorries, means the list of such applications published by the Commissioner in Gazette No. 8,420 of December 16, 1938, under the provisions of section 46 (1) of the principal Ordinance as modified by the Order under section 183 of that Ordinance published in Gazette No. 8,405 of October 14, 1938.

SCHEDULE.

Amendments of the Motor Car Ordinance, No. 45 of 1938.

Column 1. Provision of Ordinance.	Column 2. Amendment.
1. Section 31	In the Proviso to sub-section (1), at the end of paragraph (iv), for the word "required," there shall be substituted the following:— "required, and the licence duty shall be payable on receipt of information under section 52, that the licence will be issued."
2. Section 42	In sub-section (2)— (1) for the word "car." at the end of paragraph (c), there shall be substituted the words "car; or"; and (2) the following new paragraph shall be added at the end of the sub-section:— "(d) authorising an omnibus to be used, subject to such conditions as may be specified in the permit, for the carriage of mails or newspapers."
3. Section 46	In sub-section (1)— (1) for all the words from "The Commissioner" to "be published", there shall be substituted the following:— "The Commissioner shall cause one or more lists of applications for licences for omnibuses and one or more lists of applications for licences for lorries, which are duly forwarded to him under section 45, to be published."

Column 1. Provision of Ordinance.	Column 2. Amendment.
	(2) the following shall be added at the end of the sub-section :— “ Nothing herein contained shall be deemed to prevent the Commissioner from including in any list to be published under this sub-section, any application forwarded after the date specified in section 45 (1) (b), if such application has been duly made in accordance with the provisions of section 43 (1).”
4. Section 61	In sub-section (3), for the words “ forty pounds.” at the end of the sub-section, there shall be substituted the words “ twelve pounds.”
5. Section 62	For the words “ forty pounds.” at the end of the section, there shall be substituted the words “ twelve pounds.”
6. Section 79	For sub-section (1) there shall be substituted the following new sub-section :— “ (1) An omnibus shall not be driven on any highway at a greater speed than twenty miles per hour.”
7. Section 111	The following new sub-section shall be added at the end of the section :— “ (5) Where any omnibus or motor cab is authorised by permit issued under section 42 to be used for the carriage of articles of any description, no person shall be deemed to have contravened any provision of this section by reason only of the carriage on the omnibus or motor cab of articles of that description.”
8. Section 183	For the words “ therein enacted.” at the end of the section, there shall be substituted the words “ herein enacted.”
9. First Schedule	(1) In regulation 17— (a) for the words “ Where seats are placed behind each other on an omnibus,” there shall be substituted the following :— “ Where direct access is provided from the left or near side of an omnibus to seats which are placed behind each other, ” ; (b) for the words “ thirteen ” and “ twenty-seven ” there shall be substituted respectively the words “ eighteen ” and “ thirty-two ”.
	(2) The following new regulation shall be inserted immediately after regulation 21 and shall have effect as regulation 21A of the First Schedule :— “ 21A. The Commissioner may grant a permit exempting any omnibus, which was registered before October 8, 1938, under the Motor Car Ordinance, 1927, from the provisions of regulation 17 or of regulation 21 (2). Every such permit shall be subject to such conditions as the Commissioner may insert therein, and shall cease to be in force on December 31, 1939.”
10. Sixth Schedule	In the parenthesis set out immediately below the caption, for the figure “ 139 ”, there shall be substituted the figure “ 162 ”.

Objects and Reasons.

By a Proclamation under section 1 of the new Motor Car Ordinance, No. 45 of 1938, the first day of April, 1939, was appointed to be the date on which that Ordinance shall come into operation and, by a further Proclamation under the same section, certain provisions of the Ordinance were brought into force on the 10th day of October, 1938, for the purposes of the issue of licences for motor cars before the date appointed for the operation of the Ordinance.

An Order was subsequently made under section 183 of the Ordinance under which applications for licences for omnibuses and lorries to be in force on and after April 1, 1939, were required to be made before the end of November, 1938, and licensing authorities were accordingly required by section 45 (1) (c) of the Ordinance, as modified by that Order, to forward applications to the Commissioner not later than December 7, 1938. Certain licensing authorities failed to comply with the obligation imposed on them by section 45 and the Commissioner was therefore unable to include in the lists of applications which he published in the Gazette of December 16, 1938, some applications which had been duly made to licensing authorities before the end of November, 1938.

In view of the fact that several applications had to be excluded from the lists through no fault of the applicants themselves, it is considered expedient that relief should be given to those applicants and the only suitable method of meeting the difficulty is to postpone the operation of the new Ordinance until July 1, 1939.

2. This Bill accordingly contains provision by which the first day of July, 1939, will be appointed to be the date on which the new Motor Car Ordinance is to come into operation. All appointments and regulations already made under the Ordinance are to be deemed to have been made for the purpose of the issue of licences to be in force on and after July 1, 1939. (Clauses 2 and 3).

3. Clause 4 provides for the issue, under the Motor Car Ordinance, 1927, of licences for the period from April to June, 1939, and for the payment of appropriate duties for such licences.

Clause 6 enables licences to be issued under the new Ordinance for the period from July to December, 1939, and provides that the duty payable on such licences shall be one-half of the yearly duties prescribed by that Ordinance.

4. Clause 5 contains special provision to deal with the case of applications for licences for omnibuses and lorries which have already been included in the lists published by the Commissioner in the Gazette of December 16, 1938. Any application which is included in either of those lists will be considered to be an application for a licence to be in force on and after July 1, 1939, and no further application will be required in any such case. All objections duly made on or before January 6, 1939, in respect of such applications will be deemed to be objections duly made against the issue of such licences for the half-year commencing on July 1, 1939.

Clause 5 (2) is intended to afford an opportunity for new applications to be made for licences for omnibuses and lorries for the half year commencing on July 1, 1939, and contains the necessary provisions as to the publication of new lists of such applications and for the receipt of objections against the issue of licences. Both the old applicants and the new applicants will be entitled to make objection under section 46 of the Ordinance in respect of any application which is included in any of the new lists, and new applicants will, in addition, be entitled to make objection in respect of applications included in the old lists.

It is intended that all applications included in the old lists and in the new lists should be considered and dealt with together, in accordance with the special procedure contained in the new Ordinance.

5. Section 128 of the new Ordinance does not limit the liability which is required to be covered by policies of third-party insurance relating to the use of motor cars, and it is considered desirable that the minimum requirements as to the amounts to be covered by the policies should be prescribed.

The object of Clause 8 is to make the necessary amendment in section 128, and Clause 9 makes the corresponding amendment in section 129.

6. The opportunity has been taken to effect certain minor amendments of the new Ordinance which have been found to be necessary. (Clause 10 and Schedule).

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

Colombo, January 28, 1939.