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CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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

L. D.—O. 53/39. M. L. A. 555.

An Ordinance further to amend the Motor Car Ordinance, No. 45 of 1938.

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.

2 Section 3 of the Motor Car Ordinance, No. 45 of 1938, (hereinafter referred to as the "principal Ordinance"), is hereby amended in sub-section (1) by the substitution for the words "not exceeding six in number" of the words "not exceeding ten in number".

Amendment of section 3 of Ordinance No. 45 of 1938.

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

Amendment of section 4 of the principal Ordinance.

(a) by the repeal of sub-sections (1), (2), (3) and (4) thereof, and by the substitution therefor of the following sub-sections :—

"(1) For the purposes of this Ordinance the Governor may from time to time appoint not less than ten persons all of whom shall form a panel from which Tribunals of Appeal shall be constituted as hereinafter provided.

(2) Every person appointed under sub-section (1) shall, unless he earlier vacates the office or is removed

therefrom by the Governor, hold office for such period not exceeding three years as the Governor may determine at the time of the appointment. Any person vacating the office by effluxion of time shall be eligible for reappointment.

(3) Every Tribunal 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.

(4) It shall be the duty of a Tribunal of Appeal to hear and determine all appeals preferred in accordance with the provisions of this Ordinance or any regulation."

(b) in sub-section (5)—

(i) by the substitution for the words "the Tribunal", wherever those words occur collectively therein, of the words "a Tribunal of Appeal"; and

(ii) by the substitution, for paragraph (c) thereof, of the following:—

"(c) the procedure to be observed for convening a Tribunal of Appeal and for the hearing of appeals."

(c) by the repeal of sub-section (6) and the substitution therefor of the following:—

"(6) (a) The decision of a Tribunal on any appeal shall be final:

Provided, however, that where an order is made by a Tribunal on any appeal, the appellant or the Commissioner may, subject to such conditions as may be prescribed and on payment of the prescribed fee, make an application to the Tribunal to state a case on a question of law for the opinion of the Supreme Court.

(b) The stated case shall set forth the facts and the decision of the Tribunal, and the party requiring it shall transmit the case, when stated and signed, to the Supreme Court within fourteen days after receiving the same.

(c) At or before the time when he transmits the stated case to the Supreme Court, the party requiring it shall send to the other party notice in writing of the fact that the case has been stated on his application and shall supply him with a copy of the stated case.

(d) Any Judge of the Supreme Court may cause a stated case to be sent back for amendment by the Tribunal and thereupon the case shall be amended accordingly.

(e) Any Judge of the Supreme Court may hear and determine any question of law arising on a stated case and upon such determination the Registrar of the Court shall remit the case to the Tribunal with the opinion of the Court thereon; and the Tribunal shall, in such manner as that opinion may require, rescind or revise the order in connexion with which the case was stated, and where any order so rescinded was to the effect that a licence should be refused, in addition make a new order that the licence should be issued.

(f) In any proceedings before the Supreme Court under this section, the Court may make such order in regard to costs in the Supreme Court and in regard to the fee paid under paragraph (a) as to the Court may seem fit. Such costs may, notwithstanding anything contained in any other written law, be recoverable in the manner prescribed in sub-section 7."

(d) in sub-section (7) by the substitution for the words "the Tribunal", wherever those words occur collectively therein, of the words "a Tribunal of Appeal".

Power to state case to Supreme Court.

Amendment of section 14 of the principal Ordinance.

4 Section 14 of the principal Ordinance is hereby amended by the addition at the end thereof of the following new sub-section:—

"(3) Notwithstanding anything in sub-section (1) to the contrary, any dealer in motor cars, who is authorised in writing for the purpose by a person who is absent from Ceylon, may make application on behalf of that person for the registration of a motor car, and in any such case the application shall for the purposes of this section and of section 16 (1) be deemed to have been signed and made by that person."

5 Section 18 of the principal Ordinance is hereby amended as follows :—

Amendment of section 18 of the principal Ordinance.

- (a) in sub-section (2), by the substitution, for the words "On any change of possession of a motor car", of the words "On any change of possession of a motor car, other than an omnibus or a lorry," ;
- (b) by the insertion immediately after sub-section (2) of the following new sub-section, which shall have effect as sub-section (2A) of that section :—

"(2A) On any change of possession of an omnibus or lorry upon a voluntary transfer made by the registered owner—

- (a) the registered owner shall within fourteen days after such change of possession forward to the Commissioner a statement in the Form 5 set out in the Second Schedule together with the licence for the omnibus or lorry and shall deliver to the new owner the certificate of registration relating to the omnibus or lorry or a duplicate thereof ;
- (b) the omnibus or lorry may be used for a period of fourteen days after such change of possession, under and in accordance with the licence for the time being in force therefor, if the new owner has obtained from the registered owner a statement in writing in the Form 5A set out in the Second Schedule ;
- (c) the omnibus or lorry shall not be used for more than fourteen days after such change of possession unless the new owner is registered as the owner thereof and unless a new licence or a provisional licence is issued to him on application made in accordance with the provisions of section 58B."

6 Section 20 of the principal Ordinance is hereby repealed and the following section shall be substituted therefor :—

Replacement of section 20 of the principal Ordinance.

"20. (1) No person shall be registered as the new owner of a motor car unless—

Registration of new owner.

- (a) the application for registration is accompanied by the prescribed fee and by the certificate of registration or a duplicate thereof, relating to that motor car ;
- (b) the licence for that motor car or a duplicate thereof is forwarded to the Commissioner by the applicant or the previous owner of that motor car.

(2) Upon the registration of the new owner of a motor car, the Commissioner shall, save as otherwise provided in sub-section (3), make the necessary alterations in the licence, if it is still in force, and in the certificate of registration, relating to that car, and shall deliver the altered licence and certificate to the new owner :

Provided, however, that the Commissioner may refuse to deliver the altered licence to the new owner unless a certificate of insurance or a certificate of security, in conformity with the provisions of Part VIII and relating to that motor car, is produced to the Commissioner or a licensing authority for inspection :

Provided further that the Commissioner may, if he considers it expedient, issue in lieu of the altered certificate, a new certificate of registration to the person registered as the new owner.

(3) Upon the registration under this section of the new owner of an omnibus or lorry, otherwise than on the death of the previous registered owner—

- (a) the Commissioner shall make the necessary alterations in the certificate of registration and shall deliver the altered certificate to the new owner ;
- (b) the omnibus or lorry shall not, save as otherwise provided in section 18 (2A) (b), be used unless a new licence or a provisional licence is issued in respect thereof upon application made in accordance with the provisions of section 58B."

7 Section 29 of the principal Ordinance is hereby amended by the addition at the end thereof of the following new sub-section which shall have effect as sub-section (6) of that section :—

Amendment of section 29 of the principal Ordinance.

"(6) On any change of possession of an omnibus or lorry, otherwise than on the death of the registered owner, the new owner shall not be deemed to have contravened

the provisions of sub-section (1) by reason only of the possession of the omnibus or lorry, if he has applied for a new licence in accordance with the provisions of section 58B and the application has not been finally determined, or if he has given notice of a period of non-user under section 30."

Amendment of section 30 of the principal Ordinance.

8 Section 30 of the principal Ordinance is hereby amended in sub-section (1) (a) by the substitution, for the words "before the 23rd day of December", of the words "before the thirty-first day of December".

Amendment of section 31 of the principal Ordinance.

9 Section 31 of the principal Ordinance is hereby amended in sub-section (1) by the substitution, for paragraph (iv) of the Proviso to that sub-section, of the following paragraph:—

"(iv) in the case of an omnibus or lorry, the application shall be made in accordance with the provisions of section 43, and the duty payable on the licence shall be paid upon receipt of information that the licence will be issued."

Replacement of section 43 of the principal Ordinance.

10 Section 43 of the principal Ordinance is hereby repealed and the following section shall be substituted therefor:—

Application for licence for omnibus or lorry.

"43. (1) Every application for a licence for an omnibus or lorry to come into force at any time in the month of January in any year shall be made to the licensing authority on or before the thirtieth day of September in the preceding year.

(2) Every applicant for a licence for an omnibus shall specify in his application—

- (a) particulars of the route or routes, (hereinafter referred to as the "proposed route" or "proposed routes"), on which it is proposed to provide a service under the licence;
- (b) in the case of a licence in respect of a regular service, the time table and table of fares of the proposed service;
- (c) in the case of a licence in respect of any service other than a regular service, particulars as to the frequency of the service and the length of time proposed to be taken for the journeys included in the service.

Regulations may be made prescribing the circumstances in which a service provided by any omnibus shall be deemed to be a regular service for the purposes of this sub-section.

(3) Subject to the provisions of section 55B, every applicant for a licence for a lorry shall specify in his application particulars of the area, (hereinafter referred to as the "proposed area of operation"), in which it is proposed to use the lorry for the carriage of goods, and shall—

- (a) furnish the prescribed particulars with respect to any business as a carrier of goods for fee or reward carried on by him at any time before the date of the application, and particulars of the rates charged by him;
- (b) furnish particulars of any agreement or arrangement, affecting in any material respect the provision within the area of the licensing authority of facilities for the transport of goods for fee or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the area;
- (c) furnish particulars as to the nature and quantity of the goods to be carried therein otherwise than for fee or reward;
- (d) specify the place or places outside the proposed area of operation to or from which a service, (hereinafter referred to as an "additional service"), is to be provided and the purposes for which such service is necessary.

(4) Every application under this section shall be despatched by registered post, or delivered in person, to the licensing authority; and the licensing authority shall in every case where an application is delivered in person issue a written acknowledgment of the receipt thereof.

(5) Where there is any change of possession of any omnibus or lorry at any time before the final determination

of an application for a licence therefor, the application shall be void and no further proceedings shall be taken thereon :

Provided, however, that where the change of possession is consequent upon the death of the previous registered owner, the new registered owner of that omnibus or lorry shall be deemed for all purposes to be the applicant for the licence and the provisions hereinafter contained shall apply accordingly."

11 Section 44 of the principal Ordinance is hereby amended in sub-section (1) by the addition at the end thereof of the following :—

" Save as otherwise provided in sub-section (2), no licence shall be issued for any omnibus unless the omnibus is produced for examination before the expiry of a period of one month after the date on which the decision or order, that the licence should be issued, is communicated to the licensing authority under section 52."

Amendment of section 44 of the principal Ordinance.

12 Section 45 of the principal Ordinance is hereby amended in sub-section (1) (b) by the substitution for the words " to be in force on and after the first day of January ", of the words " to come into force at any time in the month of January ".

Amendment of section 45 of the principal Ordinance.

13 Section 46 of the principal Ordinance is hereby amended as follows :—

Amendment of section 46 of the principal Ordinance.

(a) by the repeal of sub-section (1) and the substitution thereof of the following sub-section :—

" (1) (a) The Commissioner shall, when applications for licences for omnibuses or for lorries to come into force at any time in the month of January in any year have been duly forwarded to him under section 45 (1) (b), cause one or more lists of such applications to be published in accordance with paragraph (d) on or before the twentieth day of October next preceding.

(b) The Commissioner shall, as soon as may be after the receipt from a licensing authority of an application for a licence for an omnibus or lorry to come into force at any time after the thirty-first day of January in any year, cause a notice of such application or of any two or more of such applications, to be published in accordance with paragraph (d).

(c) Nothing in paragraph (a) or paragraph (b) shall be deemed to prevent the Commissioner from including in any list or notice published under this sub-section any application which is forwarded after the date specified in section 45 (1), if such application has been duly made in accordance with the provisions of section 43.

(d) Every list or notice required to be published under this section shall be published in the Gazette, and the Commissioner shall cause a copy of such list or notice to be affixed in a conspicuous position at the office of every licensing authority and at such other places as the Commissioner may consider necessary."

(b) in sub-section (2) by the substitution for the words " may make objection " of the words " may, on payment of the prescribed fee, make objection ".

(c) by the addition at the end thereof of the following new sub-section which shall have effect as sub-section (4) of that section :—

" (4) Any person, who is entitled under sub-section (2) to make objection to the issue of any licence, may, on payment of the prescribed fee, inspect the application for that licence at any reasonable time at the office of the Commissioner."

14 Section 47 of the principal Ordinance is hereby amended, in sub-section (1) (e), by the substitution for the words " area of operation," of the words " area of operation and the nature of any proposed additional service or services,".

Amendment of section 47 of the principal Ordinance.

15 Section 48 of the principal Ordinance is hereby amended by the repeal of sub-section (2) thereof and the substitution thereof of the following sub-section :—

Amendment of section 48 of the principal Ordinance.

" (2) Where upon any application for a licence for a lorry the Commissioner decides that the licence should be issued, the Commissioner shall—

(a) determine the area of operation in respect of which the licence may be issued, and for the purpose of such determination he may approve the whole or any part of the proposed area of operation ; and

- (b) determine the additional service or services, if any, which may be provided under the licence, and specify the route or routes to be followed for the purposes of any such service."
- Amendment of section 49 of the principal Ordinance.**
- 16** Section 49 of the principal Ordinance is hereby amended as follows :—
- (a) in sub-section (2) (a) by the substitution, for the words " person, authority or officer," of the words " person or authority " ;
- (b) in sub-section (2) (c), by the substitution, for the words " area of operation ", of the words " area of operation or any proposed additional service," ;
- (c) by the addition at the end thereof of the following new sub-section which shall have effect as sub-section (3) of that section :—
- " (3) The Commissioner shall set out in every notice, required by sub-section (2) to be given to the applicant for a licence, the reasons for the decision to which the notice relates."
- Amendment of section 50 of the principal Ordinance.**
- 17** Section 50 of the principal Ordinance is hereby amended as follows :—
- (a) by the substitution, for the words " the Tribunal ", wherever they occur collectively in that section, of the words " a Tribunal " ;
- (b) in sub-section (2) by the substitution for the words " officer or applicant ", of the words " or applicant " .
- Amendment of section 51 of the principal Ordinance.**
- 18** Section 51 of the principal Ordinance is hereby amended as follows :—
- (a) by the substitution, for the words " The Tribunal ", wherever they occur collectively in that section, of the words " A Tribunal " ;
- (b) in sub-section (1) by the substitution, for the word " thereof," at the end of that sub-section, of the words " thereof, and all or any one or more of the proposed additional services." ; and
- (c) in sub-section (2)—
- (i.) by the substitution, for the words " proposed area of operation " in paragraph (a) (iii) of the words " proposed area of operation and of such additional service or services," ;
- (ii.) by the substitution, for the words " as may be specified in the order." in paragraph (b) (ii), of the words " and of such additional service or services, as may be specified in the order."
- Amendment of section 52 of the principal Ordinance.**
- 19** Section 52 of the principal Ordinance is hereby amended as follows :—
- (a) by the substitution, for the words " the Tribunal ", of the words " a Tribunal " ;
- (b) by the substitution, for the words " the area of operation in respect of which the licence may be issued," of the words " the area of operation and the additional service or services, if any, in respect of which the licence may be issued " .
- Amendment of section 53 of the principal Ordinance.**
- 20** Section 53 of the principal Ordinance is hereby amended by the addition at the end thereof of the following new sub-sections which shall have effect as sub-sections (3) and (4) of that section :—
- " (3) Notwithstanding that a case may have been stated to the Supreme Court under section 4 in connexion with any order of a Tribunal of Appeal that a licence should be issued, it shall be the duty of the licensing authority, subject to the provisions of this section, to issue the licence in accordance with the order :
- Provided, however, that—
- (i) where any such order is rescinded under paragraph (e) of section 4 (6), the Commissioner shall, by notice sent by registered post, require the person to whom the licence was issued to surrender the licence for cancellation under section 36, and any licence which is not so surrendered shall for the purposes of this Ordinance be void and of no effect after the date of the receipt of such notice ;
- (ii) where any such order is revised under paragraph (e) of section 4 (6), the Commissioner shall, by notice sent by registered post, require the person to whom the licence was issued to transmit the licence to him, and shall make such alterations thereon as may be specified in the order as so revised.

(4) Where a new order is made under paragraph (e) of section 4 (6) that a licence should be issued to any person, the licensing authority shall, subject to the provisions of sub-section (2), forthwith issue a licence to that person in accordance with the order."

21 Section 54 of the principal Ordinance is hereby amended in sub-section (2), thereof, by the substitution, for the words "area of operation for that lorry.", of the following :—

Amendment of section 54 of the principal Ordinance.

"area of operation for that lorry, and the additional service or services, if any, which may be provided under that licence, and the route or routes to be followed for the purposes of each such service."

22 Section 55 of the principal Ordinance is hereby repealed and the following section shall be substituted therefor :—

Replacement of section 55 of the principal Ordinance.

"55. (1) (a) The registered owner of any omnibus for which a licence is in force may make application to the Commissioner for the alteration of any approved route specified in that licence.

Alteration of approved routes and area of operation.

(b) The registered owner of any lorry for which a licence is in force may make application to the Commissioner for the alteration of the area of operation specified in that licence or for the endorsement of the licence for the purpose of enabling a new additional service to be provided thereunder.

(2) The Commissioner shall publish in accordance with the provisions of section 46 (1) a notice of every application made under sub-section (1), and the provisions of that section and of sections 47 to 51 shall apply *mutatis mutandis* in the case of every such application :

Provided, however, that it shall be lawful for the Commissioner in his discretion provisionally to grant any application under sub-section (1), and to alter any licence accordingly, pending the final determination of such application as hereinbefore provided.

(3) Upon the final determination by the Commissioner or a Tribunal of Appeal, as the case may be, of any application made under sub-section (1), the Commissioner shall make such alterations as may be necessary in the licence to give effect to his decision or to the order of the Tribunal of Appeal."

23 The following new sections shall be inserted immediately after section 55 of the principal Ordinance and shall have effect respectively as sections 55A and 55B of that Ordinance :—

Insertion of new sections 55A and 55B in the principal Ordinance.

"55A. (1) (a) The Commissioner may at any time in his discretion amend the licences for any two omnibuses belonging to the same registered owner in order to enable each such omnibus to be used on the route or on all the routes, as the case may be, previously approved for the other omnibus.

Exchange of routes or areas of operation of omnibuses or lorries in the same ownership.

(b) Where the licence for any omnibus is amended under paragraph (a), that omnibus shall not be used on any route or any part of any route which is not specified in the licence as so amended.

(2) (a) The Commissioner may at any time in his discretion amend the licences for any two lorries belonging to the same registered owner in order to enable each such lorry to be used in the area of operation and for the additional service or services, if any, previously approved for the other lorry.

(b) Where the licence for any lorry is amended under paragraph (a), that lorry shall not be used in any area, or for the purpose of any additional service, which is not specified in the licence as so amended.

55B. Regulations may be made—

Licences for lorries without restriction as to area of operation.

(a) specifying the cases in which, and the conditions subject to which, a licence may be issued authorising the use of any lorry in any part of Ceylon without restriction as to the area in which such lorry may be used ; and

(b) modifying or adapting the provisions of sections 43 to 51 in such manner as may be necessary for the purposes of the application of those provisions in any case where any person applies for any such licence.

Replacement of section 58 of the principal Ordinance.

Withdrawal of omnibus from service.

24 Section 58 of the principal Ordinance is hereby repealed and the following section shall be substituted therefor:—

58. (1) The registered owner of any omnibus for which a licence is in force shall, if he intends to withdraw the omnibus from service for any reason other than a change of possession, give notice of his intention to the licensing authority:

Provided, however, that no notice shall be required in any case where the registered owner of the omnibus proposes to replace that omnibus by a new omnibus and makes application under section 58A for a licence for the new omnibus.

(2) Where an omnibus is to be withdrawn from service on the ground that it is unfit for use as such, the licensing authority shall, on payment of the prescribed fee, cause the omnibus to be examined by an examiner, and where the examiner certifies that the omnibus is unfit to be used as such, the registered owner shall forthwith withdraw the omnibus from service and inform the licensing authority and the Commissioner of such withdrawal.

(3) Where an omnibus is certified after examination under sub-section (2) to be fit to be used as such, or where any omnibus is to be withdrawn for any reason other than that it is unfit for use as such, the licensing authority shall forward the notice given by the registered owner and the certificate of the examiner, if any, to the Commissioner, and the registered owner shall not withdraw the omnibus from service except with the approval of the Commissioner or before such date as he may appoint.

(4) Where the registered owner of an omnibus proposes to replace that omnibus and makes application under section 58A for a licence for a new omnibus, the first-mentioned omnibus shall not be withdrawn from service until a licence for the new omnibus is issued under that section.

Insertion of new sections 58A to 58E in the principal Ordinance.

Replacement of omnibuses or lorries which are withdrawn from service or sold.

25 The following new sections shall be inserted immediately after section 58 of the principal Ordinance and shall have effect respectively as sections 58A, 58B, 58C, 58D and 58E of that Ordinance:—

58A. (1) (a) (i) Where any omnibus is withdrawn from service under section 58 or is voluntarily transferred by the registered owner to any other person; or

(ii) Where the registered owner of any omnibus proposes for any other reason to replace the omnibus,

the registered owner may make application to the Commissioner for a licence for another omnibus (in this section referred to as a "new omnibus") in respect of the route or routes approved for the omnibus which is withdrawn or transferred or to be replaced, as the case may be, and the Commissioner may direct the licensing authority, subject to the provisions of sub-section (4), to issue a licence for the new omnibus.

(b) An application in any case referred to in paragraph (a) (i) shall, if it is not made before the date of the withdrawal or transfer of an omnibus, be made within the period of fourteen days next following that date.

(2) The registered owner of any lorry which is withdrawn from service or voluntarily transferred to any other person, may, if he proposes to replace the lorry by another lorry (in this section referred to as a "new lorry"), make application to the Commissioner at any time before the date of such withdrawal or transfer or within the period of fourteen days next following that date, for a licence for the new lorry in respect of the area of operation and the additional service or services, if any, approved for the lorry which is or is to be withdrawn, and the Commissioner may direct the licensing authority, subject to the provisions of sub-section (4), to issue a licence accordingly.

(3) In any case where application for a licence for a new omnibus or lorry is made under this section in consequence of the voluntary transfer of an omnibus or lorry, the Commissioner shall not direct the licensing authority to issue the licence unless the statement forwarded to the Commissioner under section 18 (2A) contains a declaration to the effect that application will be made for a licence for a new omnibus or lorry under this section.

(4) (a) The provisions of section 44 and of paragraphs (a) to (d) set out in section 53 (2) shall apply in any case where the Commissioner directs a licensing authority under this section to issue a licence for a new omnibus or lorry,

and for the purposes of such application the direction of the Commissioner under this section shall be deemed to be a decision or order communicated under section 52.

(b) No licence for a new omnibus or a new lorry shall be issued under this section by any licensing authority—

- (i) unless the licence for the omnibus or lorry which is or is to be withdrawn or replaced has been forwarded to the licensing authority for cancellation, or where the withdrawal is consequent on a voluntary transfer, has been forwarded to the Commissioner under section 18, and transmitted by him to the licensing authority; and
- (ii) unless payment is made of the duty payable under section 32 on the licence for the new omnibus or lorry.

(5) Where an omnibus or lorry is withdrawn from service under section 58 or is to be replaced by another omnibus otherwise than in consequence of the voluntary transfer thereof, the licensing authority shall cancel the licence for that omnibus or lorry before the issue of a licence for a new omnibus or lorry under this section, and upon such cancellation a refund of duty shall be made in accordance with the provisions of section 36.

(6) Nothing contained in section 43 and in sections 45 to 52 shall apply in the case of any application made under this section for a licence for a new omnibus or lorry.

58B. (1) On any change of possession of an omnibus or lorry, otherwise than on the death of the registered owner, the new owner of the omnibus or lorry may make application in accordance with the provisions of section 43 for a new licence for the omnibus or lorry, and the provisions of that section and of sections 45 to 52 shall apply accordingly :

Issue of new licences on change of possession.

Provided, however, that in any case where the application is for a new licence in respect of the route or routes, or the area of operation and additional services, if any, approved for that omnibus or lorry before the change of possession, the Commissioner may in his discretion, pending the final determination of the application as hereinbefore provided, direct the licensing authority to issue a provisional licence to the applicant.

(2) (a) Duty shall be payable on a new licence or a provisional licence issued on application made under sub-section (1), and the amount of such duty shall be determined in accordance with the provisions of section 32.

(b) Where a new licence or a provisional licence is issued, on application made under sub-section (1), to the new owner of any omnibus or lorry, the licensing authority shall cancel the licence previously in force for that omnibus or lorry, and upon such cancellation, refund of duty shall be made to the new owner in accordance with the provisions of section 36.

(3) Nothing hereinbefore contained shall be deemed to require any omnibus or lorry to be examined and certified as fit before the issue of a new licence or a provisional licence upon any change of possession of the omnibus or lorry.

58c. (1) (a) Where application is made under section 43 for a licence for an omnibus or lorry to come into force at any time after the thirty-first day of January in any year, or

(b) where application is made for a licence for a lorry to come into force at any time, and the Commissioner is satisfied that the lorry belongs to, or is intended to be employed wholly or mainly in the service of, His Majesty,

Issue of provisional licences in case of omnibus or lorry for which a licence is not in force.

it shall be lawful for the Commissioner pending the final determination of the application as hereinbefore provided, to direct the licensing authority to issue a provisional licence to the applicant.

(2) The provisions of section 44 and of paragraphs (a) to (d) set out in section 53 (2) shall apply in every case where the Commissioner directs a licensing authority under this section to issue a provisional licence for any omnibus or lorry, and for the purposes of such application the direction of the Commissioner under this section shall be deemed to be a decision or order communicated under section 52.

(3) In any case where a provisional licence for an omnibus or lorry is issued in accordance with sub-section (1), the duty payable thereon shall be the same as the duty which would under section 32 be payable on an ordinary licence for that omnibus or lorry.

Cancellation
of provisional
licences on
issue or refusal
of licence.

58D. (1) Where a provisional licence has been issued to any person in accordance with the provisions of section 58B or section 58C, the licensing authority shall, upon receipt of the communication of the decision of the Commissioner or of the order of a Tribunal of Appeal upon the application—

- (a) if the decision or order is that the licence should be issued, issue a licence to that person in accordance with such decision or order; and
- (b) whether or not the licence is to be issued, by notice sent by registered post require that person to surrender the provisional licence for cancellation.

(2) Any person who fails to surrender a provisional licence in accordance with any notice sent under sub-section (1) (b) shall be guilty of an offence, and any provisional licence which is not so surrendered shall for the purposes of this Ordinance be void and of no effect after the date of the receipt of such notice.

(3) (a) No duty shall be payable on any licence issued under sub-section (1) (a) for any omnibus or lorry.

(b) In any case where a licence for an omnibus or lorry is not issued to the holder of a provisional licence under paragraph (a), the provisions of section 36 shall apply upon the surrender of that provisional licence.

Relief
licences for
omnibuses.

58E. (1) (a) The Commissioner may at any time by written order require any person who is the holder of five or more licences for omnibuses—

- (i.) to keep and maintain, during a specified period, such number of additional omnibuses as may be specified in the order and to have each such omnibus in a fit condition and ready for use in the circumstances referred to in sub-section (6); and
- (ii.) to make application, in accordance with the order, for a licence in the prescribed form, (hereinafter referred to as a "relief licence"), for each such additional omnibus.

(b) Every order under paragraph (a) shall specify the licensing authority to which such application shall be made, and copy of the order shall be sent by the Commissioner to that licensing authority.

(c) It shall be the duty of every person to whom any order under paragraph (a) is addressed to comply with such order.

(d) Where any person to whom an order under paragraph (a) is addressed, fails to obtain a relief licence by reason of the fact that the licence is refused by the licensing authority under section 53 (2) (c), that person shall be deemed to have contravened the order.

(2) The Commissioner may at any time in his discretion, upon application made in the prescribed form by any person who is the holder of, or an applicant for, five or more licences for omnibuses or lorries, direct the licensing authority to issue to that person a relief licence for each additional omnibus or lorry which he may be authorised by the Commissioner to keep.

(3) Where application is made to any licensing authority for a relief licence for an additional omnibus in consequence of an order under sub-section (1), or where any licensing authority is directed under sub-section (2) to issue a relief licence for an additional omnibus or lorry, the provisions of section 44 and of paragraphs (a) to (d) of section 53 (2) shall apply, and for the purposes of such application the order or direction of the Commissioner under this section shall be deemed to be a decision or order communicated to the licensing authority under section 52.

(4) Notwithstanding anything to the contrary in this Ordinance, the duty payable on a relief licence for an additional omnibus or lorry for any period shall be one half of the duty which would be payable under section 32 on an ordinary licence for that period for an omnibus or lorry of that class or description.

(5) Nothing contained in sections 43 and 45 to 52 shall apply in relation to any application for or to the issue of a relief licence for an additional omnibus or lorry.

(6) Where any omnibus for which a licence is in force is for any reason temporarily withdrawn from use on any route specified in the licence for any period exceeding twenty-four hours, it shall be the duty of the owner of that

omnibus, if he is the holder of a relief licence for an additional omnibus, to provide a service on that route by the use of the additional omnibus.

(7) Where a relief licence for an additional omnibus or lorry has been issued to any person under this section, the additional omnibus or lorry shall not be used except—

- (a) in place of, and on a route or in an area of operation approved for, an omnibus or lorry which is temporarily withdrawn from use and which is owned by that person; or
- (b) under a special permit issued in accordance with the provisions of section 117 or section 118; or
- (c) in such other circumstances and subject to such conditions as may be prescribed.

(8) Where any additional omnibus or lorry is used in contravention of the provisions of sub-section (7) the owner and the driver of the omnibus or lorry shall severally be guilty of an offence.

(9) Where a relief licence is in force for an additional omnibus or lorry, that licence shall be carried thereon in accordance with the provisions of section 35, together with the licence for any other omnibus or lorry, as the case may be, in place of which the additional omnibus or lorry may for the time being be used."

26 Section 64 of the principal Ordinance is hereby amended in the Proviso thereto as follows :—

Amendment of section 64 of the principal Ordinance.

(a) by the substitution, for all the words from " person " to " highway ", of the following :—

" person who has completed eighteen years of age may, notwithstanding that he is not the holder of a certificate of competence, drive on a highway "; and

(b) in paragraph (b) by the substitution, for all the words from " if there is " to " prescribed ", of the following :—

" if there is carried above each identification plate fixed on the car, in such manner as not to obscure any such identification plate, a white board or plate bearing the letter " L " painted thereon in red ".

27 Section 68 of the principal Ordinance is hereby amended by the addition at the end thereof of the following new sub-section which shall have effect as sub-section (5) of that section :—

Amendment of section 68 of the principal Ordinance.

" (5) Where any entry made under sub-section (1) on any certificate of competence is cancelled under sub-section (3) or sub-section (4), the Commissioner may, on application made by the holder of that certificate in accordance with the provisions of section 67 (1) at any time after the expiry of two years from the date of such cancellation, make a fresh entry on that certificate under sub-section (1) of this section."

28 Section 71 of the principal Ordinance is hereby amended in sub-section (1) (c) thereof by the substitution, for the words " A copy of every certificate issued by any officer ", of the words " Every application made to, and a copy of every certificate issued by, any officer ".

Amendment of section 71 of the principal Ordinance.

29 Section 75 of the principal Ordinance is hereby amended in sub-section (3) by the substitution, for the words " Magistrate of the court.", at the end of that sub-section, of the words " Magistrate of the court, or in the case of a conviction by the Supreme Court, by the Registrar of that Court."

Amendment of section 75 of the principal Ordinance.

30 Section 76 of the principal Ordinance is hereby amended in sub-section (5) by the addition, at the end of paragraph (e) thereof, of the following :—

Amendment of section 76 of the principal Ordinance.

" Where a new certificate is issued to any such person the Commissioner shall make an entry in the new certificate to the effect that it is issued in consequence of an order under this section, but shall not set out therein any particulars relating to any previous conviction of that person."

Amendment of section 79 of the principal Ordinance.

31 Section 79 of the principal Ordinance is hereby amended as follows :—

(a) by the repeal of sub-section (1) and the substitution therefor of the following sub-section :—

“(1) An omnibus, or a lorry having at are exceeding one ton, shall not be driven—

(a) on any highway within an urban area, at a greater speed than twenty miles per hour : or

(b) on any highway outside an urban area, at a greater speed than twenty-five miles per hour.”

(b) by the repeal of sub-section (2) ; and

(c) by the re-numbering of sub-section (3) as sub-section (2), and by the omission of the words “ or sub-section (2) ” occurring therein.

Amendment of section 97 of the principal Ordinance.

32 Section 97 of the principal Ordinance is hereby amended in sub-section (1) (c) (i), by the substitution for the words “ the property ”, of the words “ the property or animal ”.

Amendment of section 107 of the principal Ordinance.

33 Section 107 of the principal Ordinance is hereby amended in sub-section (6), by the substitution for the words “ on demand to recover the whole fare so paid,” of the following :—

“ on demand to recover the amount of the fare payable in respect of the part of the journey which remains uncompleted or the price of a ticket which will enable him to complete his journey on another omnibus, whichever is the greater.”

Amendment of section 111 of the principal Ordinance.

34 Section 111 of the principal Ordinance is hereby amended as follows :—

(a) in sub-section (1) by the substitution, for the words “ other than the personal luggage ”, of the words “ other than such goods as may be prescribed or the personal luggage ” ;

(b) in sub-section (4) by the substitution, for the words “ personal luggage,” of the words “ personal luggage, and of the goods, other than personal luggage, which may be carried in motor cabs or omnibuses.” ;

(c) by the addition, at the end thereof, of the following new sub-section which shall have effect as sub-section (6) of that section :—

“(6) No omnibus shall be stopped by any police officer for the purpose of ascertaining whether any offence under this section has been committed in respect of that omnibus, unless that officer is of a rank not below that of sergeant in charge of a station.”

Amendment of section 114 of the principal Ordinance.

35 Section 114 of the principal Ordinance is hereby amended in sub-section (1) thereof as follows :—

(a) by the substitution, for the words “ shall keep ”, of the words “ shall, unless exemption in respect of that hiring car or lorry has been granted in accordance with regulations, keep ” ; and

(b) by the omission of paragraph (d) thereof.

Amendment of section 115 of the principal Ordinance.

36 Section 115 of the principal Ordinance is hereby amended by the substitution, for the words “ shall carry ”, of the words “ shall, unless exemption in respect of that omnibus or lorry has been granted in accordance with regulations, carry ”.

Amendment of section 117 of the principal Ordinance.

37 Section 117 of the principal Ordinance is hereby amended as follows :—

(a) by the repeal of sub-section (1) and the marginal note thereto, and substitution therefor of the following :—

“(1) The Commissioner or any police officer of a rank not below that of Assistant Superintendent, may upon application made by the registered owner of an omnibus or a lorry for which a licence is in force and on payment of the prescribed fee, issue a special permit authorizing the use of that omnibus or lorry during such period as may be specified in the permit, in connection with any religious festival, exhibition, fair, carnival, race-meeting or such other event of public importance as may be prescribed, for the carriage—

(a) in the case of an omnibus for which a relief licence is in force, of passengers to and from any place along a stated route or routes

Permits for omnibuses and for festivals and special events.

- (b) in the case of any other omnibus, of passengers to and from any place along any stated route or routes not specified in the licence for that omnibus ;
- (c) in the case of a lorry for which a relief licence is in force, of goods to or from any stated place ;
- (d) in the case of any other lorry, of goods to and from any stated place outside the area of operation specified in the licence for that lorry ;” ;

- (b) in sub-section (2), by the substitution, for the word “ passengers ”, of the words “ passengers or goods, as the case may be,”; and
- (c) by the addition at the end thereof, of the following new sub-section which shall have effect as sub-section (4) of that section :—

“ (4) Where any lorry is used under the authority of a special permit issued under sub-section (1), the permit shall be carried in the lorry.”

38 Section 118 of the principal Ordinance is hereby amended by the repeal of sub-section (1) and the substitution thereof of the following sub-section :—

Amendment of section 118 of the principal Ordinance.

“ (1) Regulations may be made prescribing the circumstances in which, the conditions on which, and the authority or officer by whom—

- (a) an omnibus may be authorised by special permit to use a route, other than a route specified in the licence for that omnibus, for the purposes of the carriage of a party of tourists or of a private party of passengers ;
- (b) an omnibus for which a relief licence is in force may be authorized to be used for any purpose mentioned in paragraph (a) ;
- (c) a lorry may be authorised to be used for the carriage of goods to or from any place outside the area of operation specified in the licence for that lorry.”

39 Section 123 of the principal Ordinance is hereby amended in sub-section (1) as follows :—

Amendment of section 123 of the principal Ordinance.

- (a) by the substitution for the words “ not more than two persons ”, of the words “ not more than three persons ”; and
- (b) by the substitution, for the words “ any two or more ”, of the words “ any four or more.”

40 Section 124 of the principal Ordinance is hereby amended as follows :—

Amendment of section 124 of the principal Ordinance.

- (a) by the re-numbering thereof as sub-section (1) of section 124 ;
- (b) in the re-numbered sub-section (1), by the omission of the words “ either laden or unladen ” ;
- (c) by the addition, immediately after renumbered sub-section (1), of the following new sub-sections which shall have effect as sub-sections (2) and (3) of section 124 :—

“ (2) Where any omnibus is weighed for the purposes of sub-section (1), it shall be the duty of every passenger on that omnibus, if required so to do, to alight from the omnibus before it is weighed.

(3) Where any lorry is weighed for the purposes of sub-section (1), no goods shall be unloaded therefrom except with the consent of the person for the time being in charge of the lorry.”

41 The following new section shall be inserted immediately after section 125 of the principal Ordinance and shall have effect as section 125A of that Ordinance :—

Insertion of new section 125A in the principal Ordinance.

“ 125A. Regulations may be made—

- (a) prescribing the circumstances in which, and the conditions subject to which, exemption from the provisions of sections 114 and 115 may be granted by the Commissioner in respect of any omnibus or lorry ;
- (b) providing that any specified provision of this Part shall not apply in the case of any lorry which is for the time being used for the purposes of His Majesty's service.”

Exemptions from provisions of this Part.

- Amendment of section 127 of the principal Ordinance.
- 42** Section 127 of the principal Ordinance is hereby amended in sub-section (2) thereof as follows :—
- (a) by the re-numbering of that sub-section as paragraph (a) of that sub-section ;
- (b) by the addition, immediately after the re-numbered paragraph (a), of the following new paragraph :—
- “ (b) The provisions of sub-section (1) shall not apply in the case of any motor car at any time when it is being driven in accordance with the conditions contained in the Proviso to section 64 by a person who has completed eighteen years of age, for the purpose of learning to drive a motor car.”.
- Amendment of section 128 of the principal Ordinance.
- 43** Section 128 of the principal Ordinance is hereby amended in sub-section (1) thereof as follows :—
- (a) by the substitution for paragraph (c) thereof of the following paragraph :—
- “ (c) in the case of a hiring car or lorry, covers any liability which is referred to in paragraph (b) and which may be incurred in respect of any one accident, up to an amount which shall not be less than twenty thousand rupees, or in the case of any other motor car covers any such liability as may actually be incurred.” ;
- (b) in paragraph (ii) of the Proviso thereto, by the omission of the words “ for fee or reward or ”.
- Amendment of section 130 of the principal Ordinance
- 44** Section 130 of the principal Ordinance is hereby amended in sub-section (4) thereof as follows :—
- (a) in paragraph (a) (iv), by the substitution for the word “ reward ; ” of the words “ reward, otherwise than on a contract of hire under which the hirer drives the car himself ; ” ;
- (b) by the omission of the word “ or ” at the end of paragraph (c) ;
- (c) by the re-numbering of paragraph (d) as paragraph (e) ;
- (d) by the insertion, immediately before the re-numbered paragraph (e), of the following :—
- “ (d) in the case of a motor cycle which has no side-car attached thereto, provides that no person other than the driver shall be carried thereon ; or ”.
- Amendment of section 139 of the principal Ordinance.
- 45** Section 139 of the principal Ordinance is hereby amended in sub-section (2) by the substitution, for the word “ delivered ”, of the word “ issued ”.
- Amendment of section 159 of the principal Ordinance.
- 46** Section 159 of the principal Ordinance is hereby amended in sub-section (3) thereof by the substitution, for the words “ shall be returned ”, of the words “ shall, on demand, be returned ”.
- Amendment of section 176 of the principal Ordinance.
- 47** Section 176 of the principal Ordinance is hereby amended by the substitution, for the definition of “ Tribunal ”, of the following :—
- “ “ Tribunal ” or “ Tribunal of Appeal ” means a Tribunal of Appeal constituted under section 4 ; ’.
- Amendment of First Schedule to the principal Ordinance.
- 48** The First Schedule to the principal Ordinance is hereby amended as follows :—
- (a) in regulation 11 (1), by the substitution, for the words “ six inches ”, of the words “ twelve inches ” ;
- (b) by the omission of regulation 18 ;
- (c) by the omission of regulation 21 (2).
- Amendment of Second Schedule to the principal Ordinance.
- 49** The Second Schedule to the principal Ordinance is hereby amended by the insertion after Form 5 therein, of the following new Form 5A :—

“ FORM 5A.

(Section 18 (2A)).

The Motor Car Ordinance, No. 45 of 1938.

I¹ _____, registered owner of omnibus*/lorry No. _____
(Make : _____) hereby state that I transferred the said
omnibus*/lorry to ² _____ on the ³ _____ and declare that

I will not make application to the Commissioner under section 58A of the Motor Car Ordinance, No. 45 of 1938, for a licence for a new *omnibus/lorry to replace that *omnibus/lorry.

The approved _____ *route/routes
 _____ * area of operation and additional services
 specified on the licence for the * omnibus/lorry * is/are :—

(Signature of transferor) ”

- 1 Name of transferor.
 - 2 Name of transferee.
 - 3 Date of transfer.
 - 4 Specify routes or area and services.
- * Strike out what is inapplicable.

Objects and Reasons.

The object of this Bill is to amend the Motor Car Ordinance, No. 45 of 1938, in certain respects, principally in regard to the licensing of omnibuses and lorries and to the requirements relating to policies of insurance in respect of omnibuses and lorries.

2. Clause 3 of the Bill amends section 4 of the principal Ordinance by the substitution of new provisions under which the Governor will be empowered to appoint not less than ten persons to form a panel from which Tribunals of Appeal, each consisting of three members, may be constituted. This amendment will enable appeals from the decision of the Commissioner on applications for licences to be dealt with more expeditiously. The new sub-section (6) of section 4 will enable a Tribunal to state a case for the opinion of the Supreme Court on a question of law.

3. It is proposed to insert in the Ordinance new provisions relating to the consequences of any change of possession of an omnibus or lorry otherwise than by reason of the death of the registered owner. The effect of the amendments made in sections 18 and 20 of the principal Ordinance by Clauses 5 and 6, read together with the new sections 58A and 58B which will be inserted in the Ordinance by Clause 25, is that where the registered owner of an omnibus or lorry voluntarily transfers the vehicle to any other person the registered owner will have the option of applying, under section 58A, for a licence for a new omnibus or lorry to replace the vehicle which is transferred ; and in such a case where the application is for a licence for the new vehicle in respect of the route or routes or the area of operation previously approved for the vehicle which is transferred, the Commissioner will be empowered to direct the licensing authority to issue the licence, and the provisions relating to objections and appeals will not apply.

Where the registered owner does not exercise the option of replacing the transferred omnibus or lorry by a new vehicle, the new owner will be entitled, for a period of fourteen days from the date of transfer, to use the omnibus or lorry under and in accordance with the licence for the time being in force, and will be able, under section 58B, to make application for a new licence for that omnibus or lorry ; where the application is for a licence in respect of the route or routes or the area of operation previously approved for that omnibus or lorry, the Commissioner will be empowered to direct the licensing authority to issue a provisional licence which will be valid until the question whether the licence should be granted is finally determined in accordance with the provisions set out in sections 43 to 52 of the Ordinance. The power to issue a provisional licence may also be exercised in any other case where there is a change of possession of an omnibus or lorry otherwise than on the death of the registered owner.

4. Clause 10 replaces section 43 of the principal Ordinance by a new section which provides, *inter alia*, that every application for a licence for an omnibus or lorry to come into force at any time in the month of January in any year must be made to the licensing authority on or before 30th day of September in the preceding year.

It is proposed that in the case of a licence to come into force at any other time in any year the application will be considered as expeditiously as possible ; in such cases it will therefore be likely that the application will be finally granted or approved within six weeks from the date on which the application is made to the licensing authority.

5. Sub-section (5) of the new section 43 provides that where an omnibus or lorry is transferred, after an application for a licence therefor has been made, the application will be void and that no further proceedings will be taken thereon.

Provision is being made in the new section 43 to enable the applicant for a licence for a lorry to state in his application, not only the area of operation in which the lorry is to be used, but also the additional services which he proposes to provide under the licence. Consequential amendments will also be made in the other sections in Part V (b) so as to enable the Commissioner and the Tribunal of Appeal to consider and approve the provision of additional services under licences for lorries.

6. Clause 22 replaces section 55 of the principal Ordinance by a new section under which application may be made by the registered owner of an omnibus or lorry for the alteration of the approved routes or approved area of operation specified on the licence. In such a case the ordinary procedure relating to objections and appeals will apply, but the Commissioner will be empowered provisionally to grant such an application pending the final determination of the question whether or not the alteration is to be made.

7. Clause 23 of the Bill inserts two new sections 55A and 55B in the principal Ordinance. The new section 55A will empower the Commissioner to amend licences for any two omnibuses belonging to the same registered owner in order to enable each such omnibus to be used on the route or routes previously approved for the other omnibus. A similar power will be exercised in the case of two lorries belonging to the same registered owner.

The new section 55B will enable regulations to be made specifying the cases in which a licence may be issued authorising the use of any lorry in any part of Ceylon without restriction as to the area in which the lorry may be used.

8. Under the new section 58c, which will be inserted in the principal Ordinance by Clause 25, the Commissioner will be empowered, in any case where application is made for a licence for an omnibus or lorry to come into force at any time after the 31st day of January, to direct the licensing authority to issue a provisional licence pending the final determination of the application in accordance with the ordinary procedure. The section will also confer on the Commissioner the power to grant a provisional licence at any time in any case where he is satisfied that the lorry belongs to, or is intended to be employed, wholly or mainly in, the service of His Majesty.

9. The new section 58E, which is also to be inserted in the principal Ordinance by Clause 25, will provide for the issue of relief licences for omnibuses or lorries. Under sub-section (1), the Commissioner will be empowered to require any person who is the holder of five or more licences for omnibuses to keep one or more additional omnibuses and to apply for a relief licence for each such additional omnibus. Under sub-section (2), the holder of five or more licences for omnibuses or lorries will be enabled to apply to the Commissioner for authority to keep one or more additional omnibuses or lorries, and the Commissioner may, in such a case, direct the licensing authority to issue a relief licence or licences.

The duty payable on a relief licence for any period will be half the duty payable on an ordinary licence for that period.

Sub-section (6) of the new section will provide that where an omnibus is temporarily withdrawn from use on any route for any period exceeding twenty-four hours the owner will if he is the holder of a relief licence for an additional omnibus, be bound to provide a service on that route by the use of the additional omnibus.

Sub-section (7) will lay down the necessary restrictions as to the use of additional omnibuses or lorries in respect of which relief licences are in force.

10. Clause 31 of the Bill will amend section 79 of the principal Ordinance in order to provide that the speed limit in the case both of omnibuses, and of lorries having a tare exceeding one ton, will be 20 miles per hour in urban areas and 25 miles per hour outside urban areas.

11. Clause 34 will amend section 111 of the principal Ordinance so as to enable regulations to be made permitting the carriage on hiring cars of specified goods, in addition to the personal luggage of passengers.

12. Clauses 37 and 38 will amend sections 117 and 118 of the principal Ordinance in order to enable permits under these sections to be issued in respect, not only of omnibuses, but also of lorries.

13. Clause 40 of the Bill will amend section 124 of the principal Ordinance in order to provide that when a lorry is to be weighed for the purposes of that section, goods shall not be unloaded therefrom except with the consent of the person for the time being in charge of the lorry.

14. Clause 41 will insert in the principal Ordinance a new section 125A under which regulations may be made authorising the Commissioner to grant exemption, in appropriate cases, from the provisions of sections 114 and 115 of the Ordinance which require registers and record sheets to be maintained in respect of the use of omnibuses and lorries.

By paragraph (b) of the new section 125A, power will be taken to make regulations providing that any of the sections in Part VII. of the Ordinance shall not apply in the case of any lorry which is for the time being used for the purposes of His Majesty's service.

15. Clause 42 will amend section 127 (2) of the principal Ordinance by the insertion therein of a new paragraph which provides that sub-section (1) of that section shall not apply in the case of a motor car driven by a person who is learning to drive.

Section 64 of the Ordinance permits a learner, subject to certain specified conditions, to drive a motor car although he is not the holder of a certificate of competence. It is necessary, therefore, to provide that in such a case the driving of a motor car by a learner need not be covered by a policy of insurance.

16. Clause 43 will effect an important amendment in section 128 of the principal Ordinance, designed to provide that the policy of insurance in respect of an omnibus need not cover any liability incurred to a passenger. Under the section as amended, the policy relating to a hiring car or a lorry will be required to cover liability in respect of any one accident up to an amount which must not be less than twenty thousand rupees.

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

Colombo, August 2, 1939.

MINUTE.

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

L. D.—O 60/37

An Ordinance to provide for the regulation of the currency of Ceylon.

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**An Ordinance to provide for the regulation of the
currency of Ceylon.**

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 Currency Ordinance, No. of 1939, and shall come into operation on such date as may be appointed by the Governor by Proclamation published in the Gazette.

Board of
Commissioners
of Currency.

2 (1) A Board to be called the Board of Commissioners of Currency (hereinafter referred to as the "Board") is hereby established for the purposes of this Ordinance.

(2) The Board shall consist of five Commissioners. Three of the Commissioners shall be the persons for the time being lawfully discharging the functions of Financial Secretary, Deputy Chief Secretary and Deputy Financial Secretary. Two of the Commissioners (hereinafter referred to as "the nominated Commissioners") shall be appointed by the Governor after consultation with the Board of Ministers. The nominated Commissioners shall hold office for three years from the date of appointment, and they shall be entitled to such remuneration for their services as may be fixed by the Governor.

(3) The Financial Secretary shall be the Chairman of the Board, and shall preside at all meetings of the Board. In the absence of the Financial Secretary the Deputy Financial Secretary shall act as Chairman.

(4) The Board shall meet whenever convened by the Chairman. The quorum at any meeting shall be three. The Chairman shall in the event of an equality of votes have a second or casting vote.

(5) The Board shall have an office in Colombo, and may from time to time—

- (a) with the approval of the Governor appoint such agents as they may consider necessary;
- (b) employ such officers, servants, and other persons as they may consider necessary.

(6) The Board may arrange with the Government to employ on the work of the Board, on such terms as the Governor may determine either generally or specially, such officers and servants in the service of Government as they deem necessary, and such officers or servants shall, while engaged in the work of the Board, continue to be subject to all terms and conditions of service, all general orders, public service and pension regulations as are applicable to persons in the service of Government.

(7) Any duty devolving, and any power conferred, on the Board may be discharged or exercised by any three of the Commissioners.

(8) Any act of the Board may be signified in writing under the hand of the Chairman of the Board.

(9) If any Commissioner is for the time being unable to act the Governor may appoint a fit person to act in his place during such inability.

Standard
unit of
value.

3 (1) The standard unit of value of this Island shall be the Ceylon rupee.

(2) The Ceylon rupee shall be divided into one hundred units, each of which shall be called a cent.

4 Every contract, sale, payment, bill, note, instrument, and security for money, and every transaction, dealing, matter and thing whatsoever relating to money, or involving the payment of money, or the liability to pay any money, shall, in the absence of express agreement to the contrary, be held to be made, executed, entered into, done and had in the Island according to the Ceylon rupee.

Currency in which contracts may be made.

5 (1) Subject to the provisions of this Ordinance it shall be lawful for the Board to provide, issue, and re-issue currency notes and coins.

Power to issue currency notes and coins.

(2) Currency notes may be issued, re-issued, cancelled or destroyed in such manner as the Board may determine.

(3) Coins may be issued, re-issued, and withdrawn from circulation in such manner as the Board may determine.

6 All Ceylon notes and all Ceylon coins which are legal tender in Ceylon on the appointed date shall continue to be legal tender as provided in section 8 and shall be deemed for the purposes of this Ordinance to be issued under this Ordinance.

Existing notes and coins to continue to be legal tender.

7 Currency notes issued under this Ordinance shall be issued in the name of the Government of Ceylon.

Currency notes to be issued in the name of the Government of Ceylon.

8 (1) Currency notes issued or deemed to be issued under this Ordinance shall be legal tender in Ceylon for the payment of any amount.

Amount for which currency notes and Ceylon coins are legal tender.

(2) Coins issued or deemed to be issued under this Ordinance shall, provided such coins have not been illegally dealt with, be legal tender in Ceylon for the payment of an amount not exceeding—

- (a) five rupees in the case of silver coins ;
- (b) one rupee in the case of other coins.

9 The following silver coins—

- (a) the Indian rupee,
- (b) the Indian half-rupee,
- (c) the Indian quarter-rupee,

Indian rupee, &c., to be legal tender until date to be appointed.

shall, until such date as may be appointed by the Governor by Proclamation published in the Gazette, continue to be legal tender in Ceylon :

Provided that no coin which—

- (a) has been illegally dealt with, or
- (b) is below the weight prescribed in section 10,

shall be legal tender.

10 Until the date appointed under section 9, the Board shall accept Indian silver rupees, half-rupees and quarter-rupees in exchange for Ceylon notes and Ceylon coins at the rate of one Indian rupee for one Ceylon rupee :

Indian rupee, &c., to be accepted by the Board in exchange for Ceylon notes.

Provided that such coins have not been illegally dealt with or become diminished in weight by wear or otherwise so as to be below the standard weight (if any) by more than—

- (i) six and one quarter per centum in the case of the Indian rupee,
- (ii) twelve and one half per centum in the case of the Indian half-rupee and quarter-rupee.

11 For the purposes of this Ordinance, a coin shall be deemed to be illegally dealt with—

Meaning of "illegally dealt with".

- (a) where the coin is impaired, diminished, or lightened otherwise than by fair wear and tear, or
- (b) where the coin is defaced by gilding or silvering or by having any name, word, device, or number, stamped thereon, whether the coin has or has not been thereby diminished or lightened.

12 (1) Currency notes issued under this Ordinance shall be—

Form and design of currency notes.

- (a) of such denomination ;
- (b) of such form and design ;
- (c) printed from such plates ;
- (d) printed on such paper ; and
- (e) authenticated in such manner,

as may from time to time be approved by the Secretary of State.

(2) The plates shall be prepared and kept, and the notes printed, in accordance with the conditions prescribed.

Form and design of coins.

13 (1) Coins issued under this Ordinance shall be—

- (a) of such denomination,
- (b) of such metal,
- (c) of such form and design, and
- (d) of such standard weight and fineness,

as the Governor may, with the previous approval of the Secretary of State, from time to time declare by Proclamation published in the Gazette.

(2) The Governor may also, with the previous approval of the Secretary of State, from time to time declare by Proclamation published in the Gazette the amount of remedy or variation from the standard weight and fineness which shall be allowed in the making of coins issued under this Ordinance.

Redemption of Ceylon currency in Indian currency and issue of Ceylon currency in exchange for Indian currency.

14 Subject to the provisions of sections 16 and 17, the Board shall—

- (a) pay Indian currency at Bombay to any person who shall pay or cause to be paid to the Board in Colombo the equivalent value in Ceylon currency of the Indian currency required at the rate of one Ceylon rupee to one Indian rupee ;
- (b) issue Ceylon currency in Colombo to any person who shall pay or cause to be paid to the Reserve Bank at Bombay the equivalent value in Indian currency of the Ceylon currency required at the rate of one Indian rupee to one Ceylon rupee :

Provided that the Governor may with the concurrence of the Board of Ministers by order in writing suspend the obligation to issue Ceylon currency in exchange for Indian currency.

Redemption of Ceylon currency in sterling and issue of Ceylon currency in exchange for sterling.

15 Whenever the obligation to issue Ceylon currency in exchange for Indian currency is suspended the Board shall, subject to the provisions of sections 16 and 17—

- (a) pay sterling at London to any person who shall pay or cause to be paid to the Board in Colombo the equivalent value in Ceylon currency of the sterling required at the rate of one Ceylon rupee to one shilling and six pence ;
- (b) issue Ceylon currency in Colombo to any person who shall pay or cause to be paid to the Crown Agents at London the equivalent value in sterling of the Ceylon currency required at the rate of one shilling and six pence to one Ceylon rupee.

Minimum amount that can be exchanged.

16 The Board shall not exchange currency as hereinbefore provided unless the amount of the Ceylon currency to be given or received in exchange is not less than the prescribed minimum sum.

Charges in respect of exchange.

17 The Board shall be entitled to charge and levy from any person exchanging currency as hereinbefore provided—

- (a) a commission at a rate or rates to be prescribed from time to time not exceeding one rupee and seventy-five cents for every one hundred rupees of Ceylon currency taken or given in exchange ;
- (b) a charge for all telegraphic communications between the Board and its agents in connexion with the exchange calculated at the usual rates prescribed for the public.

Demonetisation of notes and coins.

18 (1) The Governor may by Proclamation published in the Gazette declare that any currency notes or Ceylon coins issued or deemed to be issued under this Ordinance shall cease to be legal tender after a date to be specified in such Proclamation.

(2) The holder of any currency note demonetized under sub-section (1) shall, on tendering such currency note at the office of the Board in Colombo at any time after the date specified in the Proclamation, be entitled to receive legal tender in exchange.

Establishment of Currency Security Fund.

19 A fund to be called the Currency Security Fund (hereinafter referred to as "the Security Fund") is hereby established.

Transfer of moneys and investments of the Ceylon Currency Commissioners to the Security Fund.

20 All moneys and investments in the possession of or standing to the credit of the Ceylon Currency Commissioners under the Ceylon Paper Currency Ordinance, 1884, are hereby transferred to the Security Fund :

Provided that if on the appointed date the total value of such moneys and investments together with the remainder of the Security Fund exceeds the face value—

- (a) of all currency notes in circulation ; and
- (b) of all coins estimated by the Board to be in circulation, the excess shall be paid by the Board to the general revenue.

21 The Board shall credit to the Security Fund—

- (a) the Indian currency and sterling received on behalf of the Board under sections 14 and 15 by the Reserve Bank and the Crown Agents respectively ;
- (b) proceeds of sale of silver ;
- (c) the Indian silver rupees, half-rupees, and quarter-rupees accepted by the Board under section 10 ;
- (d) each year, subject to section 33 (2), a sum equal to one per centum of the amount of the Security Fund.

Crediting of certain receipts to the Security Fund.

22 There shall be charged upon the Security Fund—

- (a) the Indian currency and sterling paid out on behalf of the Board by the Reserve Bank and the Crown Agents respectively, under the provisions of sections 14 and 15 ;
- (b) the purchase price of silver purchased for the manufacture of coins ;
- (c) all expenses incurred in the purchase or disposal of investments, or in the remittance of money forming part of the Security Fund.

Charges upon the Security Fund.

23 (1) The Security Fund shall be held—

- (a) by the Reserve Bank, or
- (b) by the Crown Agents, or
- (c) partly by the Reserve Bank and partly by the Crown Agents :

Crown Agents and Reserve Bank to hold Security Fund.

Provided that the Board may hold in Colombo that part of the Security Fund referred to in paragraphs (c) and (d) (ii.) of section 31.

(2) The Board shall from time to time determine what amount of the Security Fund shall be held by the Crown Agents and the Reserve Bank respectively.

(3) Such proportion of the Security Fund as may be determined by the Board with the prior approval of the Governor shall ordinarily be held in liquid form. When such liquid part of the Security Fund falls below the proportion determined under this sub-section the Board shall as soon as conveniently may be direct either the Crown Agents or the Reserve Bank or both to sell securities forming part of the Security Fund in order to restore the liquid part of the Fund to the said proportion.

(4) The Board may from time to time, with the prior approval of the Governor, alter the proportion determined under sub-section (3).

(5) (a) The liquid portion of the Security Fund may be—

- (i) held at London or Bombay in cash or on deposit, or
- (ii) lent at London or Bombay at call or for short terms, or
- (iii) invested at London or Bombay in readily realizable securities.

(b) The Crown Agents and the Reserve Bank shall in all matters affecting the said portion of the Security Fund be bound by such general directions as may be given by the Board with the prior approval of the Governor.

(6) Subject to the provisions of sub-section (3) and subject to such general directions as may be given by the Board with the prior approval of the Governor and the Secretary of State, the Crown Agents and the Reserve Bank may—

(a) invest the Security Fund—

- (i) in securities of the Government of any part of the British dominions, other than the Government of Ceylon ;
- (ii) in securities guaranteed by the Government of any part of the British dominions other than the Government of Ceylon ; or
- (iii) in any other securities approved by the Secretary of State ;

(b) sell securities and, subject to the provisions of paragraph (a), invest the proceeds in other securities.

24 Whenever the amount of the liquid portion of the Security Fund shall be insufficient to meet payments falling due under sections 14 and 15, it shall be lawful for the Board to authorise the Crown Agents or the Reserve Bank, as the case may be, to borrow or to advance on the security of any of the investments of the Board such sums as may be necessary for meeting any of the payments so falling due :

Provided that any sum so borrowed or advanced shall be repaid within a period of one year.

Board may borrow on security of investments.

Currency Income Account.	25 An account to be called the Currency Income Account (hereinafter referred to as the "Income Account") is hereby established.
What sums may be credited to Income Account.	26 The Board shall credit to the Income Account— (a) all dividends, interest, or other income derived from— (i) investments, or (ii) the employment in any other manner of the moneys of the Security Fund ; (b) all commissions paid to the Board in respect of dealings in currency as provided hereinbefore ; (c) all other receipts of the Board which by this Ordinance are not required to be paid to the Security Fund.
Charges upon Income Account.	27 There shall be charged upon the Income Account— (a) all outgoings and expenses of the Board and its agents including the Crown Agents and the Reserve Bank which by this Ordinance are not charged on the Security Fund ; (b) each year, subject to section 33 (2), a sum equal to one per centum of the amount of the Security Fund.
When expenditure of an exceptional nature may be charged upon the Security Fund.	28 The Board may, with the prior approval of the Governor, charge any expenditure of an exceptional nature on currency matters upon the Security Fund and not upon the Income Account
Surplus in Income Account to be used to meet deficiency in Security Fund.	29 (1) If on the thirtieth day of September in any year the face value— (a) of all currency notes in circulation, and (b) of all Ceylon coins estimated by the Board to be in circulation, exceeds the amount of the Security Fund, there shall be transferred to the said Fund the surplus (if any) in the Income Account or such part thereof as shall be equal to the excess. (2) The whole of the surplus in the Income Account or any part thereof which shall not be required under sub-section (1) shall be paid into the general revenue of the Island.
Deficiency in Income Account to be met from the general revenue.	30 If on the thirtieth day of September in any year there is a deficiency in the Income Account, it shall be lawful for the Governor, and he is hereby required on the application of the Board, to order the payment of a sum equal to such deficiency to the Income Account out of the general revenue of the Island.
Amount of Security Fund how determined.	31 For the purposes of this Ordinance the Security Fund at any date shall be the aggregate at that date of— (a) the amount of the liquid moneys of the Fund ; (b) the market value, as estimated by the Board, of the investments in the Fund less the amount of any advances obtained under section 24 ; (c) the realizable value of the silver held by or on behalf of the Board ; (d) the realizable value of the silver— (i) in the Ceylon coin estimated by the Board to be in circulation, (ii) in the Ceylon coin held by or on behalf of the Board.
When Governor may order payment out of general funds of the Island to meet the legal obligations of the Board.	32 If at any time the Board is unable to meet its legal obligations under this Ordinance, it shall be lawful for the Governor and he is hereby required to order the payment out of the general funds of the Island of such sum as may be necessary to meet such obligations of the Board.
Procedure to be adopted when Security Fund has surplus.	33 If on the thirtieth day of September in any year, the amount of the Security Fund exceeds one hundred and ten per centum of the face value— (a) of all currency notes in circulation, and (b) of all Ceylon coins estimated by the Board to be in circulation,

the Governor may, on being informed by the Board of such excess, with the approval of the Secretary of State, give either or both of the following directions :—

- (1) that the whole or any part of such excess shall be paid from the said Fund to the general revenue of the Island ;
- (2) that the annual charge on the Income Account of one per centum of the Security Fund shall be wholly or partially discontinued till such time as he may order otherwise.

- 34 (1) The Board shall—
- (a) cause to be published yearly in the Gazette as soon as may be an abstract showing as at the thirtieth day of September—
- (i) the face value of all currency notes in circulation ;
 - (ii) the face value of the Ceylon coin estimated by the Board to be in circulation ;
 - (iii) a list of the securities held by the Security Fund showing in each case the nominal value, the cost price and the latest known market price ;
 - (iv) the amount of the liquid moneys of the Security Fund ;
 - (v) the realizable value of the silver held by or on behalf of the Board ;
 - (vi) the realizable value of the silver in the Ceylon coins estimated by the Board to be in circulation ;
 - (vii) the realizable value of the silver in the Ceylon coins held by or on behalf of the Board ; and
 - (viii) the total amount of the Security Fund ;
- (b) submit annually to the Governor and the Secretary of State a statement of the transactions during the previous year.
- (2) The accounts of all transactions of the Board shall be audited by the Auditor-General.
- 35 On and after the appointed date—
- (a) all debts, liabilities, obligations, or contracts of the Ceylon Currency Commissioners outstanding or subsisting on such date shall be deemed to be debts, liabilities, obligations, or contracts of the Board ;
 - (b) all deeds, bonds, securities, and other instruments executed or issued by or on behalf of or in favour of the Ceylon Currency Commissioners and in force or enforceable on such date shall be deemed to be executed or issued by or on behalf of or in favour of the Board ;
 - (c) all acts, duties, and functions of the Ceylon Currency Commissioners remaining unfinished or uncompleted on such date shall be continued and completed by the Board.
- 36 The Governor may, with the approval of the Secretary of State, make regulations—
- (a) prescribing anything which by this Ordinance is to be prescribed ;
 - (b) prescribing the conditions upon which and the manner in which coin which is legal tender in Ceylon may be accepted by the Board in exchange for currency notes ; and
 - (c) generally for the better carrying into effect of the provisions of this Ordinance.
- 37 (1) In any proceedings in which the genuineness of any currency note shall be in question, a certificate under the hand of the Deputy Financial Secretary to the effect that such note is spurious on the ground that it does not contain the secret features characteristic of a genuine note of corresponding denomination, number and date, shall be received in all courts of law as conclusive evidence of the spuriousness of such note.
- (2) The Deputy Financial Secretary shall not be examined or cross-examined with respect to any such certificate.
- (3) The certificate shall be in the form following :—
- This is to certify that I have personally examined the document shown to me, and marked _____, purporting to be a currency note of the following denomination, number and date, namely—
- Denomination :
Number :
Date :
- and that the said note is spurious on the ground that it does not contain the secret features characteristic of a genuine note of corresponding denomination, number and date.
- 38 Whoever, without the authority of the Board—
- (a) cuts, or perforates any currency note,
 - (b) writes, prints, draws, or affixes any seal or stamp on the face or reverse of any currency note,
 - (c) attaches or affixes to any currency note anything in the nature or form of an advertisement,

Publication
of statements.Vesting of
rights, powers,
duties,
obligations, and
contracts of the
Ceylon
Currency
Commissioners
in the Board.

Regulations.

Evidence.

Penalty for
mutilating or
defacing a
currency note.

shall be guilty of an offence and shall, on conviction after summary trial by a Magistrate, be liable to a fine not exceeding one hundred rupees.

Power to issue currency notes remaining unissued on the appointed date.

39 The Board is hereby empowered to issue any currency notes printed under the authority of the Ceylon Currency Commissioners constituted under the Paper Currency Ordinance (Chapter 291), and remaining unissued on the appointed date.

The currency notes so issued shall be deemed for all purposes to be currency notes issued under this Ordinance.

Interpretation.

40 In this Ordinance, unless the context otherwise requires—

“appointed date” means the date on which this Ordinance comes into operation ;

“Crown Agents” means the person or persons for the time being acting as the Crown Agents for the Colonies in England ;

“currency notes in circulation” means all currency notes issued or deemed to be issued under this Ordinance excluding all currency notes cancelled, destroyed, demonetized and in the hands of the Board ;

“Reserve Bank” means the Reserve Bank of India ;

“Secretary of State” means one of His Majesty’s Principal Secretaries of State.

Repeal.

41 The Paper Currency Ordinance (Chapter 291) is hereby repealed.

Objects and Reasons.

The scheme of the existing Ordinance for the regulation of the currency of the Island is unsuited to modern conditions ; further, it involves the maintenance of a considerable reserve in Indian silver rupees, which is uneconomic.

The object of this Bill is to provide for the economic handling of the Island’s currency on up-to-date lines. Provision is made for a new standard unit of value to be called the Ceylon rupee.

Colombo, July 31, 1939.

H. J. HUXHAM,
Financial Secretary.