



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

(Separate paging is given to each Part in order that it may be filed separately.)

PASSED ORDINANCES.

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

No. 38 of 1939.

L. D.—O. 53/39. M. L. A. 555.

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

A. CALDECOTT.

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. 38 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 ; and upon such application being made, it shall be the duty of the Tribunal, if a question of law is involved, to state a case accordingly.

(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). " ;

Power to
state case
to Supreme
Court.

(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 ".

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

Amendment of section 14 of the principal Ordinance.

“(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."

Amendment of section 29 of the principal Ordinance.

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 :—

"(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."

Amendment of section 33 of the principal Ordinance.

9A Section 33 of the principal Ordinance is hereby amended in sub-section (2) by the substitution for the words "any motor car" of the words "any motor car, other than a trailer,".

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 :—

Amendment of section 44 of the principal Ordinance.

"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."

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 therefor 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) (b) 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: Provided, however, that no fee shall be payable by any licensing authority in respect of the inspection of any application.

Amendment of section 47 of the principal Ordinance.

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 48 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 therefor of the following sub-section :—

“(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”.

18 Section 51 of the principal Ordinance is hereby amended as follows :—

Amendment of section 51 of the principal Ordinance.

- (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."

19 Section 52 of the principal Ordinance is hereby amended as follows :—

Amendment of section 52 of the principal Ordinance.

- (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."

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 :—

Amendment of section 53 of the principal Ordinance.

"(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."

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

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 :—

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

" 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.

(b) Where the licence for any omnibus is amended under paragraph (a) the Commissioner shall, by endorsement on the licence, cancel the route or routes previously specified in that licence, and the 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) the Commissioner shall, by endorsement on the licence, cancel the area of operation and additional services, if any, previously specified in that licence, and the 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.

Licences for lorries without restriction as to area of operation.

55B. Regulations may be made 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.

Replacement of section 58 of the principal Ordinance.

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

Withdrawal of omnibus from service.

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.

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 :—

Insertion of new sections 58A to 58E in the principal 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,

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

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 or lorry 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.

Issue of new licences on change of possession.

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 :

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.

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

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,

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 licence 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.

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.

Relief
licences for
omnibuses
and lorries.

(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."

Amendment of section 64 of the principal Ordinance.

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

(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 ".

Amendment of section 68 of the principal Ordinance.

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 :—

" (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."

Amendment of section 71 of the principal Ordinance.

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 75 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 76 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 :—

" 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 a tare 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.

- 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 97 of the principal Ordinance.
- 33 Section 111 of the principal Ordinance is hereby amended as follows :—
- Amendment of section 111 of the principal Ordinance.
- (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."
- 34 Section 114 of the principal Ordinance is hereby amended in sub-section (1) thereof as follows :—
- Amendment of section 114 of the principal Ordinance.
- (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.
- 35 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 115 of the principal Ordinance.
- 36 Section 117 of the principal Ordinance is hereby amended as follows :—
- Amendment of section 117 of the principal Ordinance.
- (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 ;
- (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 ;"
- Permits for omnibuses and lorries for festivals and special events.
- (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."

Amendment of section 118 of the principal Ordinance.

37 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 :—

“(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 ;
- (d) an omnibus or lorry may be authorised to be driven to or from any stated place for the purposes of repairs or alterations.”

Amendment of section 123 of the principal Ordinance.

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

- (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.”

Amendment of section 124 of the principal Ordinance.

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

- (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 ; and where any lorry is weighed laden, the amount of the difference between the weight of the lorry when laden and the tare of the lorry as specified in the licence for the time being in force therefor shall be deemed, until the contrary is proved, to be the weight of the goods carried thereon.”

Insertion of new section 125A in the principal Ordinance.

40 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 :—

“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 128 of the principal Ordinance.

41 (1) 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 ".

(2) On and after the first day of September, 1940, the following sub-section shall have effect in lieu of sub-section (1) of section 128 of the principal Ordinance : —

" (1) In order to conform to the requirements of this Part a policy of insurance in relation to the use of a motor car must be a policy which —

- (a) is issued by an insurer (hereinafter referred to as an " authorised insurer ") who is authorised by the Executive Committee, subject to such conditions as may be prescribed, to issue policies of insurance for the purposes of this Part ; and
- (b) insures, in accordance with the provisions of paragraph (c), such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or arising out of the use of the motor car on a highway ; and
- (c) (i) in the case of a hiring car, 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 in respect of persons other than passengers, and up to an amount which shall not be less than two thousand rupees in respect of each passenger authorised to be carried therein ;
- (ii) in the case of a 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
- (iii) in the case of any other motor car covers any such liability which is referred to in paragraph (b) as may actually be incurred :

Provided that nothing in this sub-section shall be deemed to require any such policy to cover—

- (i) liability in respect of the death of any person in the employment of a person insured by the policy or in respect of bodily injury sustained by any person so employed, where such death or injury arises out of and in the course of such employment ;
- (ii) except in the case of a motor car in which passengers are carried for fee or reward or by reason of or in pursuance of a contract of employment, liability in respect of the death of or bodily injury to persons being carried in or upon or entering or getting on to or alighting from the car at the time of the occurrence of the event out of which the claims arise ; or
- (iii) any contractual liability."

42 Section 130 of the principal Ordinance is hereby amended as follows :—

(1) in sub-section (4)—

- (a) by the addition, at the end of paragraph (a) of that sub-section, of the following :—
- (b) by the omission of the word " or " at the end of paragraph (c) ;
- (c) by the renumbering of paragraph (d) as paragraph (e) ;
- (d) by the insertion, immediately before the renumbered 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 " ;

and,

(2) by the addition at the end of that section of the following new sub-section, which shall have effect as sub-section (5) :—

" (5) Where a person, who has completed eighteen years of age, drives any motor car in accordance with the conditions set out in the Proviso to section 64 for the purpose of learning to drive a motor car,

Amendment of
section 130
of the
principal
Ordinance.

no condition inserted under paragraph (c) (ii) of sub-section (4) in the policy of insurance relating to that car shall be of any effect as respects any such liability, as is required to be covered by section 128 (1) (b), and may be incurred while the motor car is driven by that person."

Amendment of section 139 of the principal Ordinance.

43 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.

44 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.

45 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.

46 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.

47 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.

*route/routes

The approved _____

* area of operation and additional services specified on the licence for the * omnibus/lorry * is/are⁴:—

(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.

Passed in Council the Seventeenth day of August, One thousand Nine hundred and Thirty-nine.

E. W. KANNANGARA,
Clerk of the Council.

Assented to by His Excellency the Governor the Twenty-fifth day of August, One thousand Nine hundred and Thirty-nine.

E. R. SUDBURY,
Secretary to the Governor.