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GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

DRAFT ORDINANCES.

MINUTE.

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

L. D.—O 65/39

An Ordinance to amend the Food Control Ordinance.

Cap. 132
Vol. III, p. 595.

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 Food Control (Amendment) Ordinance, No. of 1939.

Short title.

2 Section 6 of the Food Control Ordinance is hereby amended as follows :—

Amendment of
section 6 of
Chapter 132.

(1) in sub-section (2) (c) (i) by the substitution for all the words from "supply the quantity or number" to "of his business; or", of the words "supply the quantity or number demanded; or"; and

(2) by the addition of the following new sub-section which shall have effect as sub-section (3) of that section :—

(3) Notwithstanding anything in the First Schedule to the Criminal Procedure Code, every offence under this Ordinance shall be a cognizable offence within the meaning of that Code.

Cap. 16.

Objects and Reasons.

The object of this Bill is to amend section 6 of the Food Control Ordinance (Chapter 132)—

- (a) by omitting from the new sub-section (2) (c) (i) of that section the provision which enables a trader, who refuses to supply any article on demand and tender of payment therefor, to plead as a sufficient defence that he had not a sufficient quantity of the article to enable him to supply the demand in addition to the quantity necessary to satisfy subsisting contracts and the ordinary requirements of his business; and
- (b) to provide that every offence under this Ordinance shall be a cognizable offence within the meaning of the Criminal Procedure Code (Chapter 16).

G. C. S. COREA,

Minister for Labour, Industry and Commerce.

Colombo, September 4, 1939.

MINUTE.

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

L.D.—CF 14/38

An Ordinance to provide for the prohibition or restriction of the exportation or importation of goods during any public emergency.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

Short title.

1 This Ordinance may be cited as the Exports and Imports (Emergency Powers) Ordinance, No. of 1939.

Power to prohibit or restrict exportation or importation of goods.

2 (1) The Governor may, on the occurrence of any public emergency, or whenever it appears to him to be necessary in the interests of public safety or tranquillity, by Proclamation published in the Gazette, prohibit or restrict the exportation or importation from or to Ceylon of all or any goods to or from any country or place or to or from any person or class of persons.

(2) The publication of a Proclamation by the Governor under this section shall be deemed for all purposes to be conclusive proof of the occurrence of a public emergency or of the necessity for the prohibition or restriction imposed by the Proclamation in the interests of public safety or tranquillity.

Effect of Proclamation where exportation or importation is prohibited.

3 (1) Where the exportation of any goods to any country or place or person or class of persons is prohibited by Proclamation of the Governor under section 2, no person shall, while such Proclamation is in force, export or attempt to export such goods or class of goods from Ceylon to such country or place or person or class of persons.

(2) Where the importation of any goods from any country or place or person or class of persons is prohibited by a Proclamation of the Governor under section 2, no person shall, while such Proclamation is in force, import or attempt to import such goods from any such country or place or person or class of persons.

Effect of Proclamation where exportation of goods is restricted.

4 (1) Where the exportation of any goods to any country or place or person or class of persons is restricted by a Proclamation of the Governor under section 2, no person shall, while such Proclamation is in force, export or attempt to export such goods from Ceylon to such country or place or person or class of persons, except under the authority of a licence granted by or on behalf of the Principal Collector of Customs or otherwise than in accordance with the conditions of such licence.

(2) Every licence under sub-section (1) may be issued in the form of a separate document or may be endorsed on the boat-note, bill of lading or other document or documents relating to the exportation of the goods to which the licence refers as the Principal Collector of Customs may direct.

(3) Licences under sub-section (1) shall be issued by the Principal Collector of Customs subject to such directions as may be given by the Governor either generally or specially in the circumstances of any particular case; and such licences

shall be issued by the Principal Collector of Customs subject to such conditions as he may deem necessary in order to give effect to such directions.

(4) The directions of the Governor referred to in sub-section (3) shall be given after consultation with the Minister for Labour, Industry and Commerce.

(5) The decision of the Principal Collector of Customs to refuse a licence in any particular case shall for all purposes be final and conclusive and shall not be subject to review or called in question in any court of law.

5 (1) Before the issue of a licence for the shipment of any consignment of any goods the exportation of which is restricted by Proclamation of the Governor under section 2—

- (a) the Principal Collector of Customs may require the exporter to make a declaration as to the person for whom or the country or place for which such consignment is ultimately destined ; and
- (b) where the Principal Collector of Customs has reasonable cause to suspect that the declaration so made is untrue in any material particular, he may detain the consignment until he is satisfied as to the truth of the declaration and may declare such consignment to be forfeited if the truth of the declaration is not established to his satisfaction.

Declaration by exporter of ultimate destination of goods.

(2) After the exportation of any consignment of any goods the exportation of which is restricted by Proclamation of the Governor under section 2—

- (a) the Principal Collector of Customs may require the exporter to produce satisfactory evidence that the consignment has reached the ultimate destination specified in the declaration made in respect of that consignment under sub-section (1) ; and
- (b) where such evidence is not produced or is not satisfactory in the opinion of the Principal Collector of Customs, the exporter shall forfeit a sum not exceeding either treble the value of the goods exported or one thousand rupees at the election of the Principal Collector of Customs unless the exporter proves that he took all reasonable steps to ensure that the ultimate destination of the goods should be the person or country or place specified in the declaration relating to that consignment.

6 Any person who—

- (a) acts in contravention of any provision of section 3 or section 4 (1) ; or
- (b) makes or presents under section 5 any declaration or statement or representation which is untrue in any material particular,

Offences and penalties.

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding one year, or to both such fine and imprisonment.

7 Where any offence under this Ordinance is committed by a company or firm or other association of individuals, every director and officer of the company, and every partner and officer of the firm, or other member or person concerned in the management of the affairs of such association, as the case may be, shall severally be liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.

Offences committed by company, firm or other association.

8 This Ordinance shall be read as one with the Customs Ordinance, and shall be construed as supplementary to, and not in derogation of, the provisions of that Ordinance and of any other written law relating to any goods prohibited or restricted by a Proclamation of the Governor under section 2.

Ordinance to be supplementary to Customs Ordinance. Cap. 185.

9 In this Ordinance, unless the context otherwise requires—

- “ exportation ”, with its grammatical variations and cognate expressions, means carrying or taking out of Ceylon or causing to be carried or taken out of Ceylon, whether by sea or by air ;
- “ goods ” means merchantable articles of any class, kind or description and includes any foodstuffs, raw materials and gold or silver coins ;

Interpretation.

“importation”, with its grammatical variations and cognate expressions, means carrying or bringing into Ceylon, or causing to be carried or brought into Ceylon, whether by sea or by air;

“licence” means a licence issued by or on behalf of the Principal Collector of Customs under section 4 and includes an endorsement made under sub-section (2) of that section.

Objects and Reasons.

The object of this Bill is to take power to prohibit or restrict the exportation or importation of goods during a public emergency. Where a restriction is to be imposed on the exportation of goods, a licensing system will be introduced.

For the proper enforcement of the law, it is proposed to give the Principal Collector of Customs power to require a declaration to be made at the time of exportation as to the ultimate destination of goods and thereafter to require proof that the goods have reached the destination specified in such declaration.

G. C. S. COREA,
Minister for Labour, Industry and Commerce.

Colombo, September 4, 1939.