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CEYLON GOVERNMENT  
GAZETTE

EXTRAORDINARY.

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DRAFT ORDINANCES.

MINUTE.

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

L. D.—O 94/38; O 32/39

**An Ordinance to amend the Estate Labour (Indian) Ordinance.**

Chapter 112.  
(Volume III.,  
page 337).

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 Estate Labour (Indian) Amendment Ordinance, No. of 1941.

Short title.

2. Section 2 of the Estate Labour (Indian) Ordinance, (hereinafter referred to as “the principal Ordinance”), is hereby amended by the insertion, immediately after the definition of “register”, of the following new definition :—

Amendment of  
section 2 of  
Chapter 112.

“ spouse”, when used with reference to a labourer, includes the person regarded according to custom as the wife of a male labourer or the husband of a female labourer ;’.

Amendment of section 6 of the principal Ordinance.

3. Section 6 of the principal Ordinance is hereby amended, in sub-section (3) of that section, by the substitution, for the words "all wages due", of the words "or when any such contract is determined by the employer in accordance with the provisions of section 23 (1), all wages due".

Amendment of section 23 of the principal Ordinance.

4. Section 23 of the principal Ordinance is hereby amended as follows :—

(1) by the substitution, for sub-section (1) of that section, of the following :—

"(1) At the time when any labourer lawfully quits the service of any employer, it shall be the duty of that employer to issue to that labourer a discharge certificate substantially in Form II in Schedule B, and, where at such time the spouse or a child of such labourer is also a labourer under a contract of service with that employer, it shall be the duty of the employer, subject as hereinafter provided, to determine such contract and to issue a like certificate to such spouse or child :

Provided that where such spouse or child wishes to continue in service under such contract and produces to the employer an affidavit to that effect, nothing in the preceding provisions of this sub-section shall be deemed to require the employer to determine such contract or to issue a discharge certificate to such spouse or child." ;

(2) by the addition, at the end of that section, of the following new sub-section :—

'(3) In this section, "child" means a minor and includes an adopted or illegitimate child who is a minor.'

Addition of a new section 23A to the principal Ordinance.

5. The following section shall be inserted immediately after section 23 of the principal Ordinance and shall have effect as section 23A of that Ordinance :—

Separate room to be provided for each married couple living in the "lines" of an estate.

23A. (1) Where, on any estate, housing accommodation is provided by the employer for any labourer who is living with his or her spouse on that estate, the employer shall provide a separate room for such labourer and his or her spouse and shall not compel them to share such room with any person other than a child of such labourer or of his or her spouse.

In this sub-section, "child" means a child of or under the age of twelve years and includes an adopted child or an illegitimate child of or under that age.

(2) An employer who acts in contravention of the provisions of sub-section (1) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred rupees.

#### *Objects and Reasons.*

The object of Clauses 2, 3 and 4 of this Bill is to amend the Estate Labour (Indian) Ordinance (Chapter 112) by providing that when a labourer lawfully quits the service of an employer the contracts of service of the spouse and children of the labourer shall be determined at the same time unless the spouse or any child elects to continue in service and furnishes an affidavit in support of such election. This amendment of the law is designed to prevent the separation of members of the families of Indian labourers who are employed on estates in Ceylon.

2. The purpose of Clause 5 is to insert in the principal Ordinance a new section 23A which provides that a separate room shall be provided for each married couple in the "lines" of each estate and that the employer shall not compel any married couple to share their room with persons other than their own children.

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

Colombo, February 24, 1941.

## MINUTE.

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

L. D.—O 44/37

**An Ordinance to provide for the registration and control of orphanages and other institutions for the boarding, care and maintenance of orphans and deserted children, and for purposes connected with the matters aforesaid.**

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**An Ordinance to provide for the registration and control of orphanages and other institutions for the boarding, care and maintenance of orphans and deserted children, and for purposes connected with the matters aforesaid.**

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 Orphanages Ordinance, No.        of 1941. Short title.
2. (1) On and after a date, (hereinafter referred to as "the appointed date"), to be appointed by the Governor by Proclamation published in the *Gazette*, no orphanage shall be established or maintained unless that orphanage has been registered under this Ordinance as hereinafter provided. Orphanages to be registered.  
 (2) The date appointed by Proclamation under sub-section (1) shall be a date not earlier than three months after the date on which that Proclamation is published in the *Gazette*.
3. No new orphanage shall be established at any time during the period beginning on the date of the commencement of this Ordinance and ending on the appointed date : Prohibition of establishment of new orphanages before appointed date.  
 Provided that nothing in the preceding provisions of this section shall be deemed to prohibit the maintenance, during that period, of any orphanage established prior to the date of the commencement of this Ordinance.
4. (1) For the purposes of this Ordinance, the Governor may appoint any person, by name or by office, to be or to act as a Registrar of Orphanages for the whole of Ceylon or for any specified area in Ceylon. Registrars of Orphanages.  
 (2) No Registrar shall exercise or discharge any power or function vested in or assigned to him by or under this Ordinance in respect of any orphanage situated outside the area for which he is appointed.  
 (3) Where a Registrar of Orphanages is appointed for the whole of Ceylon, any reference in this Ordinance to the Registrar appointed for any area shall be deemed to be a reference to the Registrar of Orphanages appointed for the whole of Ceylon.
5. (1) The Governor may appoint any person, by name or by office, to be or to act as an Inspector of Orphanages for the purposes of this Ordinance. Inspectors of Orphanages.  
 (2) An Inspector of Orphanages shall, in the exercise, discharge and performance in any area of the powers, functions and duties vested in, assigned to or imposed on him by or under this Ordinance, be subject to the general direction and control of the Registrar of Orphanages appointed for that area.

- Applications for registration.
6. (1) Every application for the registration of an orphanage shall—
- (a) be made to the Registrar appointed for the area in which the orphanage is situated;
  - (b) be in the prescribed form and contain the prescribed particulars; and
  - (c) be signed by the Manager of the orphanage.
- (2) Every Registrar shall submit every application received under sub-section (1), together with his report thereon, to the Minister, and the Minister may make order granting or refusing the application. The decision of the Minister on any such application shall be final.
- (3) An application for the registration of an orphanage may be refused—
- (a) if the Minister is satisfied that adequate provision has not been made to secure that sufficient funds will be available for the proper administration of the orphanage;
  - (b) if the Minister is satisfied that adequate provision has not been made for the proper training, education, accommodation, care or maintenance of orphans or deserted children in the orphanage;
  - (c) if the Manager or any other person employed in the orphanage, whether for remuneration or otherwise or whether on the staff of the orphanage or as a servant therein, or in any other capacity, has been convicted of any offence, or is of such repute or character as, in the opinion of the Minister, renders him unfit to be employed in any orphanage, or to be entrusted with any control over, or any duties in connexion with, any orphan or deserted child; or
  - (d) in such other circumstances as may be prescribed.
- Issue of certificate of registration.
7. (1) Where an order has been made under section 6 for the registration of an orphanage, the Registrar appointed for the area in which the orphanage is situated shall issue to the Manager of that orphanage a certificate of registration which shall be in the prescribed form and shall, unless previously surrendered to the Registrar, continue in force until it is cancelled as hereinafter provided.
- (2) No orphanage shall at any time be deemed to be registered under this Ordinance, unless a certificate of registration is at that time in force in respect of that orphanage.
- Visitors.
8. The Governor may appoint any two or more persons, by name or by office, to be Visitors of any orphanage.
- Returns and information.
9. (1) The Manager of every orphanage shall, on or before the prescribed date in each year, furnish to the Registrar appointed for the area in which the orphanage is situated a return in the prescribed form setting out the prescribed particulars in respect of that orphanage.
- (2) The Manager of any orphanage shall, whenever required so to do by notice under the hand of the Registrar appointed for the area in which the orphanage is situated, furnish to the Registrar all such information and particulars as he may require in respect of that orphanage.
- Inspection of orphanages.
10. (1) Any Registrar or Inspector of Orphanages may at any time enter and inspect any orphanage, and may, for the purposes of such inspection, make such examination thereof as he may consider necessary, including an examination into the state and management of the orphanage and the condition and treatment of the orphans and deserted children therein.
- (2) Any person appointed under section 8 to be a Visitor of an orphanage may exercise, in respect of that orphanage, the powers conferred on an Inspector of Orphanages by sub-section (1).
- Service of directions on Manager of orphanage.
11. If the Registrar appointed for any area is satisfied that the management of any orphanage in that area, or the accommodation provided for, or the treatment of, the orphans and deserted children therein, is such as to endanger their welfare, the Registrar may, with the prior approval of the Minister, serve in the prescribed manner on the Manager of that orphanage such general or special directions with respect

to the matters aforesaid, or any of them, as the Registrar may think expedient for the welfare of the orphans and deserted children in the orphanage; and it shall be the duty of the Manager of the orphanage to comply with or give effect to any such special or general direction.

12. (1) Where a Magistrate's Court is satisfied on the application of any Registrar or Inspector of Orphanages that the Manager of an orphanage who has been duly served with any general or special direction under section 11 has failed to comply with, or give effect to, any such direction, the Court may, after such inquiry, if any, as the Court may deem necessary, issue notice on the Manager of that orphanage to show cause why the certificate of registration relating to that orphanage should not be cancelled for failure to comply with such direction.

Order of  
cancellation of  
certificate of  
registration.

(2) If the Manager of the orphanage fails to appear in response to any notice issued under sub-section (1), or having appeared, fails to show cause why the certificate of registration relating to that orphanage should not be cancelled, the Court may make order cancelling the certificate of registration.

(3) (a) The Manager of the orphanage may appeal to the Supreme Court against any order of cancellation made by a Magistrate's Court under sub-section (2); and any Registrar or Inspector of Orphanages, as the case may be, may appeal to the Supreme Court against an order whereby the Magistrate's Court has refused to cancel the certificate of registration relating to any orphanage.

(b) Every appeal under paragraph (a) shall be preferred by petition to the Supreme Court which shall be filed in the Magistrate's Court within ten days of the date of the order against which the appeal is preferred; and such petition shall, in the case of an appeal by the Manager of an orphanage, bear stamps to the value of five rupees.

(c) The Supreme Court may on any appeal under this sub-section confirm, vary or reverse the order of the Magistrate's Court, or direct that further inquiry be made or that the Manager be given a further opportunity of showing cause, or may make such other order as the justice of the case may require; and at the hearing of any such appeal the procedure to be followed shall be such as the Supreme Court may direct either generally or in any particular case.

13. Where an order is made under section 12 or section 18 cancelling the certificate of registration relating to an orphanage and no appeal is preferred against that order, or where the Supreme Court has, on any appeal under this Ordinance, confirmed the order of cancellation or made order cancelling the certificate of registration—

Effect of  
cancellation of  
certificate of  
registration.

(a) any Inspector of Orphanages, or the Registrar appointed for the area in which the orphanage is situated, or any other person authorised for the purpose in writing under the hand of the Registrar, may enter the orphanage and remove the orphans and deserted children who are found therein to the Children's Home or to such other place as may be prescribed; and

(b) no orphan or deserted child shall be received into the orphanage or be maintained therein:

Provided, however, that nothing hereinbefore contained shall, in the case of any orphan or deserted child who was received into the orphanage before the order of cancellation was, as the case may be, made or confirmed, be deemed to prohibit his maintenance therein until such time as he is removed therefrom under the provisions of paragraph (a).

14. (1) The Governor may establish a Children's Home for the reception of orphans and deserted children who are removed from orphanages under the provisions of section 13, or who are found to be homeless or without visible means of subsistence.

Children's  
Home.

(2) All expenses incurred in the management and administration of the Children's Home shall be paid out of moneys voted by the State Council for the purpose.

(3) The Governor may appoint any person by name or by office to be or to act as the Warden of the Children's Home, and such other officers and servants as may be necessary for the management of the Home.

(4) The management and administration of the Children's Home shall be under the control of a Board of Management consisting of a Chairman and such other members, not exceeding three in number, as may be appointed by the Governor in consultation with the Executive Committee. The Warden of the Children's Home shall be the secretary of the Board.

Duties of  
Warden of  
Children's  
Home.

15. It shall be the duty of the Warden of the Children's Home, subject to the general direction and control of the Board of Management and in accordance with regulations, to take all such steps as may be necessary to provide for the care and maintenance of every orphan and deserted child received into the Home and to arrange for his admission into an orphanage or for his return to his home :

Provided, however, that—

(a) the Warden shall not arrange for the admission of any such orphan or deserted child into any orphanage other than—

(i.) an orphanage for persons of the religious persuasion to which the orphan or deserted child belongs ; or

(ii.) an orphanage maintained by a poor relief authority under the Poor Law Ordinance, No. 30 of 1939 ;

(b) any such orphan or deserted child may be detained in the Children's Home until such time as he attains the age of eighteen years, if arrangements cannot be made before that time for his admission into an orphanage or for his return to his home.

Maintenance  
grant for  
orphanages.

16. (1) Subject to the provisions of sub-sections (2) and (3), the Registrar appointed for any area may from time to time pay to the Manager of any registered orphanage in that area, out of moneys voted by the State Council for the purpose, a maintenance grant in respect of the orphans and deserted children maintained in the orphanage.

(2) No maintenance grant shall be paid under sub-section (1) except in accordance with regulations which shall be made for the purpose of—

(a) prescribing the circumstances in which, and the conditions subject to which, such grants may be paid ; and

(b) fixing the amount to be paid as a maintenance grant in respect of each orphan or deserted child maintained in an orphanage.

(3) The provisions of sub-section (1) shall not have effect until such date as may be fixed in that behalf by the Governor by notification published in the *Gazette*.

Regulations.

17. (1) The Executive Committee may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Executive Committee may make regulations for or in respect of all or any of the following matters :—

(a) all matters stated or required in this Ordinance, to be prescribed, or for or in respect of which, regulations are authorised or required to be made under this Ordinance ;

(b) the form of applications for the registration of orphanages and the particulars to be contained in such applications ;

(c) the form of certificates of registration and the form of returns to be made under this Ordinance ;

(d) the books and registers to be kept by Registrars and the particulars to be entered therein ;

(e) the service of all directions, orders and notices under this Ordinance ;

(f) the places (other than the Children's Home) to which orphans and deserted children may be removed under section 13 ;

(g) the inspection of orphanages ;

(h) the circumstances in which orphans and deserted children may be admitted into the Children's Home, their accommodation and maintenance therein and their discharge therefrom ;

(i) all matters connected with or incidental to the matters or subjects specifically referred to in this sub-section.

(3) No regulation shall have effect until it has been approved by the State Council and ratified by the Governor, nor until notification of such approval and ratification has been published in the *Gazette*.

(4) Every regulation made by the Executive Committee shall, upon the publication in the *Gazette* of a notification of the approval and ratification of that regulation as provided for in sub-section (3), be as valid and effectual as if it were herein enacted.

## 18. (1) Any person who—

Offences and penalties.

- (a) establishes or maintains any orphanage in contravention of any provision of this Ordinance ;
- (b) omits or refuses to furnish any return or information required to be furnished under this Ordinance ;
- (c) knowingly makes any false statement in any application or return made or furnished by him under this Ordinance or supplies any false information when required to furnish any information under this Ordinance ;
- (d) resists or obstructs any person in the performance of the duties imposed or in the exercise of the powers conferred on such person by or under this Ordinance ;  
or
- (e) commits a breach of any provision of this Ordinance or of any regulation,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(2) Where any orphan or deserted child is received into or maintained in any orphanage, which has been established or is maintained in contravention of any provision of this Ordinance, the Manager of the orphanage and the person for the time being in charge of the orphanage shall severally be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees or to imprisonment of either description for a term not exceeding three months, or to both such fine and imprisonment.

(3) Where the Manager of a registered orphanage is convicted under sub-section (1) of any offence, the court may, in addition to any other punishment which it may impose for that offence, make order cancelling the certificate of registration relating to that orphanage, and where such an order is made, the provisions of sub-section (3) of section 12 shall apply in like manner as if the order was made under that section.

## 19. (1) In this Ordinance, unless the context otherwise requires—

Interpretation.

- “ certificate of registration ” means a certificate of registration issued by a Registrar under section 7 ;
- “ child ” means a person under the age of eighteen years ;
- “ Children’s Home ” means the Children’s Home established under section 14 ;
- “ deserted ”, when applied to a legitimate child, means a child deserted by both parents, or deserted by one parent, the other being dead or incapable of acting as a parent, or a child, both of whose parents are incapable of acting as parents ; and when applied to an illegitimate child, means a child deserted by its mother, or a child whose mother is incapable of acting as a parent ;
- “ Executive Committee ” means the Executive Committee of Home Affairs ;
- “ Inspector of Orphanages ” means an Inspector of Orphanages appointed under section 5 ;
- “ Manager ” means the person or persons responsible for the management of an orphanage, and in the case of an orphanage that has not been established, means the person responsible for the establishment thereof ;
- “ Minister ” means the Minister for Home Affairs ;
- “ orphan ”, when applied to a legitimate child, means a child, both of whose parents are dead, or one of whose parents is dead, the other being incapable of acting as a parent ; and when applied to an illegitimate child, means a child whose mother is dead ;
- “ orphanage ” includes every home or other institution for the reception, boarding, care or maintenance of orphans or deserted children, being a home or institution supported wholly or partly by voluntary contributions ;
- “ prescribed ” means prescribed by regulation ;
- “ registered ” means registered under this Ordinance ;
- “ Registrar ” means a Registrar of Orphanages appointed under section 4 ;
- “ regulation ” means a regulation made by the Executive Committee under section 17.

(2) For the purposes of this Ordinance a person shall be deemed to be incapable of acting as a parent if such person—

- (a) is under sentence of imprisonment ; or
- (b) has been adjudged by a competent court to be of unsound mind ; or

(c) is permanently bedridden or disabled and is an inmate of a hospital or of any institution for the reception and maintenance of poor persons.

Application of Ordinance to orphanages maintained or aided by poor relief authorities.

20. Every orphanage established or maintained by any poor relief authority in pursuance of the provisions of the Poor Law Ordinance, No. 30 of 1939, or in aid of which contributions are made by any such authority under those provisions shall be deemed, for the purposes of this Ordinance, to be an institution supported wholly or partly by voluntary contributions, and the provisions of this Ordinance shall apply accordingly in the case of every such orphanage.

Savings.

21. The provisions of this Ordinance shall be in addition to, and not in substitution of, the provisions of any other written law relating to orphanages or to orphans or deserted children :

Provided, however, that where there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of any such written law, the provisions of this Ordinance shall prevail.

*Objects and Reasons.*

The object of this Bill is to make provision for the registration and control of orphanages. The Bill gives effect to some of the recommendations made in the Report published in Sessional Paper II. of 1935 dealing with the employment of women and children and the control of orphanages.

2. The Ordinance will be administered by Registrars appointed for the purpose by the Governor ; power is taken to appoint a Registrar for the whole of Ceylon or to appoint Government Agents and Assistant Government Agents to be Registrars for their respective provinces and districts (Clause 4). Provision is also made in the Bill for the appointment of Inspectors of Orphanages and of Visitors.

3. On and after a date to be appointed by Proclamation in the *Gazette*, it will be unlawful to establish or maintain an orphanage unless it has been registered under the new law. Application for the registration of an orphanage will be made to a Registrar and will be submitted to the Minister for Home Affairs who will be empowered to refuse the application if he is satisfied that the orphanage will not be properly managed or administered. The decision of the Minister upon such application will be final (Clause 6).

4. Clause 11 will empower a Registrar to serve directions on the Manager of an orphanage as to the steps which should be taken to ensure the welfare of the inmates ; and, if a Magistrate is satisfied, after inquiry, that any such directions have not been complied with or observed, he may cancel the certificate of registration relating to the orphanage. An order of cancellation will be subject to an appeal to the Supreme Court.

A similar order may also be made under Clause 18 in a case where the Manager of an orphanage is convicted of any offence under the new law.

Where an order of cancellation is made, the inmates of the orphanage will be removed by a Registrar or an Inspector and it will be unlawful to receive any new inmates into that orphanage.

5. Clause 14 provides for the establishment by the Government of a Children's Home for the reception of orphans and deserted children who are removed from orphanages or who are found to be homeless or without visible means of subsistence. The Children's Home will be in charge of a Warden who will, in the exercise of his duties, be subject to the general direction and control of a Board of Management. It is proposed that when a child is received into this institution arrangements will be made for his return to his home or for his admission into an orphanage. In making arrangements for the admission of any such child into an orphanage, the Manager will be required to select an orphanage for persons of the religious persuasion to which the child belongs or an orphanage maintained by a poor relief authority ; if no suitable arrangement can be made, the child may be detained in the Children's Home until he attains the age of eighteen years (Clause 15).

6. Clause 16 provides for the payment of a maintenance grant to managers of orphanages. The rates and conditions of payment will be prescribed by regulation. It is proposed that this grant should be paid in substitution for the grant presently paid under the Codes of Regulations for Assisted Schools.

7. The power to make regulations for carrying out the provisions of the Ordinance will be vested in the Executive Committee of Home Affairs.

D. B. JAYATILAKA,

Colombo, February 26, 1941. Minister for Home Affairs.