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CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART II.—LEGAL.

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DRAFT ORDINANCES.

MINUTE.

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

L D.—O 29/40

An Ordinance to make provision for the acquisition by the Crown of certain lands sold in execution of mortgage decrees, for the alienation of such lands by the Crown and for matters connected with or incidental to 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 Land Redemption Ordinance, No. of 1941, and shall come into operation on such date as the Governor may appoint by Proclamation published in the *Gazette*

Short title
and date of
operation.

2. (1) The Land Commissioner shall be the officer of Government responsible for and charged with the administration of this Ordinance and shall in the exercise, performance or discharge of any power, duty or function conferred or imposed upon or assigned to him by or under this Ordinance, be subject to the general direction and control of the Executive Committee of Agriculture and Lands.

Administration
of Ordinance,
appointment
of officers, &c

(2) Subject to any general or special directions of the Land Commissioner, any Assistant Land Commissioner may exercise, perform or discharge any power, duty or function conferred or imposed upon or assigned to the Land Commissioner by or under this Ordinance.

(3) The Land Commissioner may either generally or specially authorise any Government Agent or Assistant Government Agent to exercise, perform or discharge any power, duty or function conferred or imposed upon or assigned to the Land Commissioner by or under this Ordinance.

(4) The Governor may appoint such other officers and servants as may from time to time be required for the purposes of this Ordinance.

(5) All officers and servants appointed for the purposes of this Ordinance shall be public servants within the meaning of the Penal Code

Cap. 15
Acquisition
of lands
by Land
Commissioner.

3. (1) The Land Commissioner is hereby authorised to acquire on behalf of Government the whole or any part of any agricultural land which was sold in execution of a mortgage decree at any time within the period which commenced on the first day of January, 1929, and ended on the thirty-first day of December, 1940, both days inclusive.

(2) Every acquisition of land under sub-section (1) shall be effected in accordance with the provisions of sub-section (5) and shall be paid for out of funds provided for the purposes of this Ordinance under section 4.

(3) No land shall be acquired under sub-section (1) until the funds necessary for the purpose of such acquisition have been provided under section 4.

(4) The question whether any land which the Land Commissioner is authorised to acquire under sub-section (1) should or should not be acquired shall, subject to any regulations made in that behalf, be determined by the Land Commissioner in the exercise of his individual judgment; and every such determination of the Land Commissioner shall be final.

(5) Where the Land Commissioner has determined that any land shall be acquired for the purposes of this Ordinance, the provisions of the Land Acquisition Ordinance, subject to the exceptions, modifications and amendments set out in the First Schedule, shall apply for the purposes of the acquisition of that land; and any sum of money which may, under such provisions be required to be paid or deposited by the Land Commissioner or by Government by way of compensation, costs or otherwise, shall be paid out of funds provided for the purposes of this Ordinance under section 4.

Cap. 203.

Funds for
purposes of
Ordinance

4. (1) The funds necessary for the purposes of this Ordinance may be provided out of—

- (a) moneys voted for such purposes by the State Council out of general revenue;
- (b) moneys raised for such purposes by way of loan in accordance with the provisions of sub-section (2); or
- (c) such other moneys at the disposal of the Land Commissioner as may have been received for such purposes by way of bequest, donation or otherwise.

(2) The Governor is hereby authorised, upon resolution in that behalf passed by the State Council on motion made by the Minister for Agriculture and Lands, to raise from time to time by way of loan for the purposes of this Ordinance such sum or sums of money as may be specified in the resolution.

Disposal of
Lands-acquired
under
Ordinance
Cap. 320.

5. (1) Any land acquired under this Ordinance, or any part of any such land, may be alienated by grant as a protected holding, or on a permit, under the Land Development Ordinance; and the provisions of that Ordinance, subject to the exceptions, modifications and amendments set out in the Second Schedule, shall apply accordingly.

(2) In the interval between the date on which the Land Commissioner enters into possession of any land for the purpose of acquiring that land and the date on which that land is alienated as hereinbefore provided, the Land Commissioner shall be responsible for the custody, management and protection of the land for the disposal of the produce thereof; and, for the purposes of the preceding provisions of this sub-section, the Land Commissioner is hereby authorised to expend such moneys and to take all such measures as he may deem necessary, subject to such conditions and restrictions as may be prescribed.

(3) No land acquired under the provisions of this Ordinance shall be alienated as hereinbefore provided to any person, unless that person is a Ceylonese and is—

- (a) a person against whom that land was sold in execution of a mortgage decree entered by any court or, where such person is dead, the surviving spouse (if any) or any descendant of such person, or
- (b) a person who is not the owner of other agricultural land, or
- (c) a person who is the owner of other agricultural land of an extent not exceeding such extent as may be prescribed.

6. Where the Land Commissioner considers it necessary that an inspection, examination or survey should be made of any agricultural land which he is authorised by this Ordinance to acquire, it shall be lawful for the Land Commissioner, or any person acting under the written authority of the Land Commissioner, together with such servants and workmen as may be necessary, to enter upon and to survey and take levels of that land or of any land in the same locality, to mark the levels and boundaries of that land, and to do all such other acts as may be necessary for the purposes of such inspection, examination or survey :

Powers of entry, survey, &c

Provided, however, that no person shall enter or do any act upon any land in pursuance of the powers conferred by the preceding provisions of this section except with the consent of the owner or occupier of that land, or after giving to such owner or occupier, in the prescribed manner, not less than seven days' notice of his intention to enter that land or to do such act thereon

7. (1) The Land Commissioner may at any time direct any person to furnish to him before a specified date—

Power of Land Commissioner to call for returns

- (a) a return in the prescribed form containing the prescribed particulars relating to any such land as is referred to in section 3 of which that person is, or was at any time, the owner ;
- (b) such information or explanation as the Land Commissioner may require in respect of any particulars stated in any return furnished by that person ;
- (c) such documentary or other evidence as the Land Commissioner may require for the purpose of verifying any particulars stated in any return or any information furnished by that person

(2) Any person who, when required to furnish a return, or any information or explanation, or any evidence under sub-section (1), fails or refuses to furnish such return, information, explanation or evidence, or knowingly furnishes a return containing any particulars which are false or any information or explanation which is false, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred rupees

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

Regulations

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

- (a) all matters stated or required by this Ordinance to be prescribed ;
- (b) the amendment or modification of any provision of the First Schedule or Second Schedule.

(3) Every regulation made by the Executive Committee shall be brought before the State Council by a motion that such regulation shall be approved and, if so approved, shall be submitted to the Governor for ratification. No regulation made by the Executive Committee shall have effect until it has been approved by the State Council and ratified by the Governor. Notification of such approval and ratification shall be published in the *Gazette*.

(4) A regulation made by the Executive Committee when approved by the State Council and ratified by the Governor shall, upon notification of such approval and ratification in the *Gazette*, be as valid and effectual as if it were herein enacted.

9. In this Ordinance, unless the context otherwise requires—

Interpretation.

“ agricultural land ” means any land which is used or capable of being used wholly or mainly for the purposes of agriculture or horticulture or for any purpose of husbandry including the keeping or breeding of live-stock, poultry or bees and the cultivation of fruits, vegetables and the like ;

“ Assistant Land Commissioner ” means any person appointed under section 5 of the Land Development Ordinance to be an Assistant Land Commissioner ;

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“ Ceylonese ” has the same meaning as in the Land Development Ordinance ;

Cap. 320

“ Executive Committee ” means the Executive Committee of Agriculture and Lands ;

“ Land Commissioner ” means the officer for the time being appointed to be Land Commissioner under the Land Development Ordinance ;

Cap. 320.

“ mortgage decree ” means a decree entered by a court in an action to enforce payment of a mortgage by a judicial sale of the mortgaged property ,

“ prescribed ” means prescribed by regulation ,

“ regulation ” means a regulation made by the Executive Committee under this Ordinance.

Effect of
Ordinance.

10. Where the provisions of this Ordinance are inconsistent or in conflict with any other law, the provisions of this Ordinance shall prevail.

FIRST SCHEDULE.

Section 3 (5)

Provision of the Land Acquisition Ordinance (Chapter 203).	Exceptions, modifications or amendments
Section 2.	<p>(1) In the definition of "District Judge" and "District Court" for the words "such land" there shall be substituted the words "the land proposed to be acquired."</p> <p>(2) The definition of "Government Agent" shall be omitted.</p> <p>(3) Immediately after the definition of "land" there shall be inserted the following:—</p> <p>" "Land Commissioner" means the officer for the time being appointed to be Land Commissioner under the Land Development Ordinance, and includes an Assistant Land Commissioner appointed under that Ordinance."</p>
Sections 3, 4, 5, 12 (2), 12 (3), 12 (4), 20, 39, 46 and 47.	Shall not apply.
Section 6.	<p>(1) For the words "The Government Agent shall thereupon cause" there shall be substituted the words "Where the Land Commissioner determines that any land shall be acquired for the purposes of the Land Redemption Ordinance, he shall cause".</p> <p>(2) For the words "Government Agent" wherever those words occur collectively there shall be substituted the words "Land Commissioner".</p>
Sections 7, 8, 9, 10, 11, 14, 23, 26, 30, 34, 36 and 41.	For the words "Government Agent" wherever those words occur collectively, there shall be substituted the words "Land Commissioner".
Section 12 (1).	<p>(1) For the words "Government Agent" there shall be substituted the words "Land Commissioner".</p> <p>(2) For the words "and has notified the same to the Governor, it shall be lawful for the Governor to direct" there shall be substituted the words "the Land Commissioner may direct".</p>
Section 13.	<p>(1) For the words "Government Agent" wherever those words occur collectively there shall be substituted the words "Land Commissioner".</p> <p>(2) In paragraph (c), the words "the amount awarded for damages under section 4," shall be omitted.</p>
Section 38.	<p>(1) For all the words from the commencement of the section to "When the amount of such compensation", there shall be substituted the words "When the amount of the compensation".</p> <p>(2) For the words "Government Agent" wherever those words occur collectively, there shall be substituted the words "Land Commissioner".</p> <p>(3) The words "and the said percentage" shall be omitted.</p> <p>(4) The words "and percentage", wherever those words occur collectively, shall be omitted.</p> <p>(5) The words "or the percentage" shall be omitted.</p> <p>(6) The words "Percentage on market value to be allowed," in the marginal note shall be omitted.</p>

Provision of the Land Acquisition Ordinance. (Chapter 203)	Exceptions, modifications or amendments.
Section 42.	For the words " If the surveyor or any of his assistants or any person acting under his or their orders " there shall be substituted the words " If the Land Commissioner or any person acting under his authority."
Schedule.	In the Form A, for the words " the Land Acquisition Ordinance _____ of _____, entitled _____," there shall be substituted the words " the Land Acquisition Ordinance and the Land Redemption Ordinance,".

SECOND SCHEDULE.

Section 5 (1).

Provision of the Land Development Ordinance (Chapter 320)	Exceptions, modifications or amendments.
Section 2.	The definitions of " mapping out ", " middle-class Ceylonese " and " unprotected holding " shall not apply.
Sections 8 to 19 (inclusive).	Shall not apply.
Section 23.	(1) In sub-section (1), for the words " may in his discretion " there shall be substituted the words " may, subject to the provisions of section 5 (3) of the Land Redemption Ordinance, in his discretion _____ ". (2) In sub-section (2), for the words " shall have special regard " there shall be substituted the words " shall, as between Ceylonese of the classes specified in paragraphs (b) and (c) of section 5 (3) of the Land Redemption Ordinance, have special regard."
Chapter III.	Immediately after section 24 there shall be inserted the following new section which shall have effect as section 24A in Chapter III. :— Powers, &c. of Assistant Land Commissioners under this Chapter. 24A. Any Assistant Land Commissioner may exercise, perform or discharge any power, duty or function conferred or imposed upon or assigned to the Government Agent under this Chapter; and any reference to the Government Agent in this Chapter shall be deemed to include a reference to an Assistant Land Commissioner.
Section 29.	In sub-section (1), for the words " the Government Agent " there shall be substituted the words " the Government Agent or of an Assistant Land Commissioner."

Provision of the Land Development Ordinance (Chapter 320).	Exceptions, modifications or amendments.
Section 33.	<p>The section shall be omitted and the following new section shall be substituted therefor :—</p> <p>Payment to Crown in respect of lands alienated on grants and permits.</p> <p>33. (1) There shall be paid to the Crown in respect of every land alienated on a grant either—</p> <p>(a) an annual payment of an amount specified in the grant, or</p> <p>(b) a fixed amount, specified in the grant, payable by instalments of such amount, at such intervals, and during such period (not exceeding twenty-five years) as may be specified in the grant.</p> <p>(2) There shall be paid to the Crown in respect of every land alienated on a permit an annual payment of an amount specified in the permit.</p>
Section 34.	<p>(1) For the words "First or Second Schedules" there shall be substituted the words "First Schedule".</p> <p>(2) For the words "either Schedule" there shall be substituted the words "that Schedule."</p> <p>(3) For the words "First and Second Schedules" there shall be substituted the words "that Schedule."</p>
Section 35:	<p>For the words "the Government Agent" there shall be substituted the words "the Government Agent or an Assistant Land Commissioner".</p>
Section 38.	<p>For the words "The amount to be paid annually to the Crown in respect of any land alienated under a grant or permit" there shall be substituted the words "Where any land is alienated under a grant or a permit on condition that an annual payment as provided in paragraph (a) of sub-section (1) of section 33, or, as the case may be, in sub-section (2) of that section, shall be made to the Crown, the amount to be so paid".</p>
Sections 145 to 151 (inclusive).	Shall not apply.
Section 156.	Paragraphs (b) and (g) shall not apply.
Sections 159 and 164	Shall not apply.
Section 168.	<p>In sub-section (1)—</p> <p>(1) in paragraph (a), for the words "any Crown land which has been mapped out;" there shall be substituted the words "any land acquired under the Land Redemption Ordinance in respect of which a grant or permit issued under this Ordinance is not in force;"</p> <p>(2) for all the words from "one hundred rupees." to the end of the sub-section, there shall be substituted the words "one hundred rupees".</p>

Provision of the Land Development Ordinance (Chapter 320).	Exceptions, modifications or amendments
Section 171.	Shall not apply.
First Schedule.	<p>(1) For paragraph 6 of the Essential Conditions there shall be substituted the following :—</p> <p>“ 6 No disposition of the holding shall be made except with the prior permission in writing of the Government Agent ”</p> <p>(2) Immediately after new paragraph 6 of the Essential Conditions there shall be inserted the following :—</p> <p>“ 7. (<i>Either</i>) (a) The sum specified in the grant shall be paid annually to the Crown. (<i>Or</i>) (b) The sum specified in the grant shall be paid to the Crown in respect of the holding, by instalments of such amount, payable at such intervals and during such number of years as may be specified in the grant.”</p>
Second Schedule.	Shall not apply.

Objects and Reasons.

The object of this Bill is to make provision for the acquisition by Government of lands sold between January 1, 1929, and December 31, 1940, (both days inclusive), in execution of mortgage decrees, and for the alienation of such lands to the original owners or to Ceylonese who are not the owners of other agricultural land. Investigation has shown that, during the years of depression, mortgagees instituted actions for the recovery of debts secured by mortgage of agricultural property and themselves purchased such property in execution of the decrees entered in such actions. It is considered desirable, in the interests of agriculturists, that the Government should acquire such lands out of public funds and alienate the lands so acquired by grants as “protected holdings”, or on permits, under the Land Development Ordinance. Payment will be made by the person to whom the land is given, either by annual payments in accordance with the existing practice under the Land Development Ordinance, or by payment of a fixed sum in yearly or half-yearly instalments over a fixed period of years, not exceeding twenty-five in any case. As it is essential that the Government should secure indefeasible title to the lands prior to their re-alienation, the provisions of the Land Acquisition Ordinance will, subject to necessary exceptions and modifications, be applied for the purpose of acquiring the lands.

2. The new law will be administered by the Land Commissioner, who in charge of the administration of all Crown lands, and in the acquisition of lands for the purposes of the new law, the Land Commissioner will have all the powers, duties and functions assigned to a Government Agent under the Land Acquisition Ordinance.

D S. SENANAYAKE,
Minister for Agriculture and Lands.

Colombo, August 20, 1941.