



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

No. 8,837 — WEDNESDAY, DECEMBER 24, 1941.

Published by Authority.

PART II.—LEGAL.

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

DRAFT ORDINANCES.

MINUTE.

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

L D—O 153/34

An Ordinance to make supplementary provision for the Public Service, the Railway Services and the Electrical Undertakings for the financial year 1939-40.

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 Supplementary Short title
Appropriation (1939-40) Ordinance, No. of 1941.

2. In addition to the sums declared to be payable for the service of the financial year beginning on the first day of October 1939, and ending on the thirtieth day of September, 1940, by or under the authority of the Appropriation Ordinance, No. 44 of 1939, the sums severally mentioned in the third column of the First, Second and Third Schedules and amounting to the sum of Ten million seven hundred and thirty-one thousand five hundred and sixty-six rupees and fifty-one cents in the First Schedule, one million seven hundred and thirty-three thousand nine hundred and twenty-five rupees and twenty cents in the Second Schedule, and one thousand and seventy-four rupees and eighty-two cents in the Third Schedule, are hereby declared to be payable for the

Supplementary
Appropriation
for the
financial year
1939-40

service of the aforesaid financial year out of the revenue and other funds of the Island, the Ceylon Government Railway and the Electrical Undertakings, respectively, in respect of the several services mentioned in the second column of each of those Schedules.

SCHEDULE I.

Sums payable out of the Revenue of the Island.

I.	II.	III.
Head of Estimates.	Service.	Sums declared Payable. Rs. c.
2 ..	Supreme Court ..	10,295 9
4A ..	War Contribution ..	5,000,000 0
7 ..	Clerical Service ..	2,878 43
10 ..	Other Defence Expenditure ..	3,444,684 63
17 ..	Legal Secretary ..	943 98
19 ..	Legal Draftsman ..	3,452 85
24 ..	Fiscal ..	3,427 75
42 ..	Miscellaneous services ..	70,267 1
52 ..	Prisons ..	17,794 75
66 ..	Department of Agriculture ..	101,427 82
70 ..	Irrigation Annually Recurrent ..	26,851 77
71 ..	Irrigation Extraordinary ..	146,773 57
72 ..	Department of Food Production ..	162,587 24
78 ..	Commissioner of Local Government ..	113,766 2
80 ..	Commissioner of Motor Transport ..	6,098 82
92 ..	Medical and Sanitary Services ..	34,665 27
100 ..	Minister of Labour, Industry and Commerce ..	1,477 78
104 ..	Controller of Labour ..	434,117 80
105 ..	Food Controller ..	23,581 55
128 ..	Railway Department ..	1,126,474 38
		10,731,566 51

SCHEDULE II.

Sums payable out of the Revenue of the Ceylon Government Railway.

1 ..	Ordinary working expenditure of the Railway ..	1,733,925 20
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SCHEDULE III.

Sums payable out of the Revenue of the Electrical Undertakings.

3 ..	Annuities payable to the Revenue of the Island on Loans ..	1,074 82
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Objects and Reasons.

This Bill makes supplementary provision for the Public Service, the Ceylon Government Railway and the Electrical Undertakings for the financial year 1939-40.

D. B. JAYATILAKA,
Minister of Home Affairs and Leader of
the State Council.

December 5, 1941.

MINUTE

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

L. D.—O 43/38

An Ordinance to provide for the regulation of the business of pawnbrokers and for other matters incidental to or connected with such regulation.

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FOURTH SCHEDULE.

An Ordinance to provide for the regulation of the business of pawnbrokers and for other matters incidental to or connected with such regulation.

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

PART I.

General.

1. This Ordinance may be cited as the Pawnbrokers Ordinance, No. of 1941. Short title.

(3) The security shall be given in one or both of the following ways :—

- (a) by personal bond and deposit with the Government Agent of moneys to the required amount ; or
- (b) by the hypothecation of immovable property to the satisfaction of the Government Agent.

(4) Where security is given in money, the Government Agent shall deposit the money in a bank and shall pay to the person giving such security the interest paid by the bank on the money so deposited as such interest becomes due from time to time.

(5) Every bond or instrument of securityship given under this section shall be free from stamp duty, anything in any other written law to the contrary notwithstanding.

(6) Every pawnbroker who, during the period of the validity of his licence, desires that the amount specified on his licence as the maximum amount which he can have outstanding at any one time by way of loans on articles taken by him on pawn be increased shall—

- (a) make a written application in that behalf to the Government Agent specifying the sum to which the original amount should be increased, and
- (b) furnish additional security in the required amount in accordance with the provisions of this section ;

and if such additional security is furnished to the satisfaction of the Government Agent, the Government Agent shall, by endorsement on the licence specify the amount to which the original amount has been increased.

(7) Every pawnbroker shall, during the period of the validity of his licence, keep deposited or hypothecated, as the case may be, security in the required amount in accordance with the provisions of this section.

10. (1) Save as otherwise expressly provided in this section every pawnbroker shall, during the period for which the licence issued to him is in force, reside within the limits of the district in which his shop or place of business is situated.

(2) Every pawnbroker who intends to be absent from Ceylon for any period exceeding three months shall—

- (a) give written notice of his intention to the Government Agent ;
- (b) appoint a person (being a person entitled under this Ordinance to a licence for carrying on the business of a pawnbroker) to act for him and on his behalf during his absence from Ceylon ; and
- (c) send the licence issued to him to the Government Agent with a written request for its transfer to such person for the period of his absence from Ceylon.

(3) If the Government Agent is satisfied, after such inquiry as he may deem necessary, that the person to whom any licence is to be transferred under this section is a person who is entitled under this Ordinance to a licence for carrying on the business of a pawnbroker, the Government Agent shall, by endorsement under his hand made on the licence, transfer the licence to such person for such period as may be specified in such endorsement.

11. No pawnbroker shall take any article on pawn before 8 A.M. or after 8 P.M. on any day.

12. No pawnbroker shall act as or carry on the business of an auctioneer.

13. Every pawnbroker shall—

- (a) always keep exhibited in large characters over the outer door of his shop or place of business his name with the word " Pawnbroker " in English, Sinhalese and Tamil ; and
- (b) always keep exhibited in a conspicuous part of his shop or place of business so as to be clearly visible to and legible by every person resorting thereto a notice containing in English, Sinhalese and Tamil the particulars set out in the Third Schedule.

14. Where any particulars are required by this Ordinance to be entered in any book, form or document, such particulars may be entered in English, Sinhalese or Tamil.

15. Every pawnbroker shall keep and use in his business a pledge book in the form B and a sale book of pledges in the form C set out in the Second Schedule, and shall from time to time, as occasion demands, enter therein in a fair and legible

Residence of
pawnbroker.

Hours of
business.

Pawnbroker not
to act as
auctioneer.

Notices, &c.,
to be
exhibited by
pawnbrokers.

Language to be
used in entering
particulars.

Books to be
kept by
pawnbrokers.

manner all the particulars for the recording of which provision is made in such forms, and shall make all inquiries necessary for that purpose.

Pawn tickets.

16. (1) Every pawn ticket shall be executed in foil and counterfoil in the form D set out in the Second Schedule and in accordance with the directions contained in that form.

(2) The particulars specified in the Third Schedule shall be printed in English, Sinhalese and Tamil on the back of the foil of every pawn ticket

(3) Where a pledge is pawned for twenty rupees or over, the foil of the pawn ticket relating to that pledge shall bear a stamp of the value of five cents. The expense for providing such stamp shall be borne by the pawnbroker.

(4) No article shall be or be deemed to be taken in pawn unless and until—

(a) the pawner has signed the counterfoil of the pawn ticket;

(b) the pawnbroker has signed the foil of the pawn ticket and has given the foil to the pawner; and,

(c) the pawner has received and accepted the foil of the pawn ticket from the pawnbroker.

Rate of interest.

17. No pawnbroker shall, in respect of a loan on a pledge, charge interest at a rate exceeding the rate specified in the Third Schedule.

PART III.

Pledges.

Pledges redeemable within one year.

18. Every pledge shall be redeemable within a period of twelve months (hereinafter in this Ordinance referred to as the "period of redemption") from the day of pawning, exclusive of that day.

Pledges to continue to be redeemable until sale.

19. Notwithstanding anything in this Ordinance to the contrary, every pledge shall continue to be redeemable until it is disposed of as in this Ordinance provided, although the period of redemption has expired.

Procedure for redemption of a pledge.

20. (1) The pawner shall be entitled to redeem a pledge if he surrenders to the pawnbroker the foil of the pawn ticket relating to that pledge and signs the foil in the presence of the pawnbroker or his agent or servant.

(2) A person other than the pawner shall be entitled to redeem a pledge if such person surrenders to the pawnbroker the foil of the pawn ticket relating to that pledge duly endorsed with the signature of the pawner and if such person signs that foil in the presence of the pawnbroker or his agent or servant.

(3) Where by reason of the death or legal disability of the pawner, the holder of the foil of the pawn ticket relating to that pledge (hereinafter in this section referred to as the "holder") claims to be entitled to redeem that pledge but is unable to surrender to the pawnbroker the foil of the pawn ticket duly endorsed with the signature of the pawner, the pawnbroker shall permit the pledge to be redeemed if such holder surrenders to him the foil of the pawn ticket relating to that pledge together with a declaration in the form E set out in the Second Schedule, duly made before a Justice of the Peace by such holder and by the person identifying him.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the pawnbroker shall, on payment of the loan and the interest due thereon, deliver the pledge to the pawner or holder, as the case may be, who produces the foil of the pawn ticket relating to that pledge; and the pawnbroker is hereby indemnified in respect of such delivery of the pledge:

Provided, however, that if the pawnbroker has reason to suspect that such holder has stolen or otherwise illegally obtained possession of the pawn ticket, the pawnbroker may seize and detain the person and the ticket and deliver them as soon as may be to an officer of police or village headman, who shall forthwith convey the person and the ticket before a court of competent jurisdiction, to be dealt with according to law.

Compensation for depreciation of pledge.

21. If a person entitled and offering to redeem a pledge shows to the satisfaction of a civil court of competent jurisdiction that the pledge has become, or has been rendered, of less value than it was at the time of the pawning thereof, by or through the default, neglect, or wilful misbehaviour of the pawnbroker, the court may, if it thinks fit, award a reasonable satisfaction to the owner of the pledge, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker in such manner as the court directs.

Protection of owners and of pawners not having pawn tickets.

22. (1) Any person claiming to be the owner of a pledge, but not holding the foil of the pawn ticket, or any person claiming to be entitled to hold the foil of the pawn ticket, but alleging that the foil of such ticket has been lost, stolen,

mislaid, destroyed, or fraudulently obtained from him, may deliver to the pawnbroker a declaration in the form F set out in the Second Schedule, duly made before a Justice of the Peace by himself and by the person identifying him, and shall thereupon have, as between himself and the pawnbroker, all the same rights and remedies as if he produced the foil of the pawn ticket :

Provided that for the purpose of redeeming a pledge he shall sign the counterfoil of the pawn ticket and not the foil thereof as required by section 20.

(2) The pawnbroker is hereby indemnified for delivering the pledge or otherwise acting in conformity with the declaration, unless he has actual or constructive notice that the declaration is fraudulent or false in any material particular.

23. (1) Where the foil of a pawn ticket is surrendered to the pawnbroker for the purpose of redeeming a pledge, the pawnbroker shall retain in his possession the foil and counterfoil of that pawn ticket for a period of twelve months reckoned from the date of the redemption of that pledge.

(2) Where a pledge is redeemed without the surrender of the foil of the pawn ticket relating to that pledge, a pawnbroker shall retain in his possession for a period of twelve months reckoned from the date of the redemption of that pledge the counterfoil of the pawn ticket relating to that pledge and the declaration delivered to him under section 22 for the purpose of such redemption.

(3) Where a pledge is sold under the provisions of this Ordinance, the pawnbroker shall retain in his possession the counterfoil of the pawn ticket relating to that pledge for a period of twelve months reckoned from the date of sale.

24. (1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on demand, within the period of redemption, to pay the value of the pledge, after deducting the amount of the loan and interest.

(2) A pawnbroker shall be entitled to insure to the extent of the value of the article pawned.

25. Every pawnbroker shall, at the time of redemption of a pledge, give a receipt for the amount of loan and interest paid to him and preserve a copy of such receipt with the pledge book. Such receipt shall be in the form G set out in the Second Schedule and shall not be liable to stamp duty unless the interest amounts to twenty rupees or more.

26. Every pledge which is not redeemed within the period of redemption shall, within three months from the expiry of the said period, be disposed of by sale by public auction and not otherwise, and the regulations in the Fourth Schedule shall be observed with reference to the sale.

27. The pawnbroker shall give to every pawner whose pledge is to be sold under this Ordinance at least fourteen days' notice of the date fixed for the sale of his pledge by public auction and of the place at which the sale is to be held.

28. In every case where a pledge is sold under this Ordinance for more than the amount of the loan and interest due at the date of the sale, the pawnbroker shall—

- (a) forthwith give to the pawner of that pledge notice of the amount for which that pledge was sold and of the amount lying to the credit of the pawner after deducting the necessary costs and charges of the sale; and
- (b) on demand made within one year from the date of such sale pay to the holder of the pawn ticket relating to that pledge the amount lying to the credit of the pawner; and
- (c) if no such demand is made within the said period of one year, forthwith on the expiry of the said period, deposit the amount lying to the credit of the pawner in the nearest Kachcheri to the credit of the general revenue.

29. Where, at any time before the appointed date, any pledge pawned for above five rupees has been sold under the law then in force for more than the amount of the loan and interest due at the time of the sale, and no demand for the amount lying to the credit of the pawner is made to the pawnbroker by the holder of the pawn ticket relating to that pledge within one year after the date of such sale, then in every case where the said period of one year expires on or after the appointed date, the pawnbroker shall, forthwith on the expiry of the said period, deposit such amount in the nearest Kachcheri to the credit of the general revenue.

Pawn tickets to be retained by pawnbroker after redemption or sale of pledge.

Liability of pawnbrokers in case of fire.

Receipt of pawnbroker.

Pledges to be sold by auction.

Notice of sale.

Procedure on sale of pledge for more than the amount of the loan and interest.

Procedure on sale of pledge before the appointed date for more than the amount due and interest.

Method of giving notice under sections 27 and 28.

30. Every notice under section 27 or section 28 shall be sent by registered post to the pawner at the address entered in the pledge book.

Purchase of pledges by pawnbroker.

31. A pawnbroker may bid for and purchase at a sale by auction made or purporting to be made under this Ordinance, a pledge pawned with him; and on such purchase he shall be deemed to be the absolute owner of the pledge purchased.

PART IV.

Inspection, Examination and Seizure

Power to inspect sale books.

32. At any time within two years from the date on which a pledge is sold under this Ordinance, the holder of the pawn ticket may inspect the entry of the sale in the pawnbroker's book and in the filled-up catalogue of the auction authenticated by the signature of the auctioneer, or in either of them; and the pawnbroker shall permit the holder of the pawn ticket to inspect the entry of the sale in such book and catalogue or in either of them.

Proceedings where persons offering articles in pawn do not give a good account of themselves.

33. Where any person—

- (a) offers to a pawnbroker an article by way of pawn, but refuses or is unable to give a satisfactory account of the means by which he became possessed of it; or
- (b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or
- (c) attempts or endeavours to redeem a pledge, not being entitled to redeem; or
- (d) offers to a pawnbroker an article by way of pawn and the pawnbroker has reason to suspect that it has been stolen or otherwise illegally obtained,

the pawnbroker may seize and detain the person and the article and deliver them, as soon as may be, into the custody of an officer of police or village headman, who shall forthwith convey the person and the article before a court of competent jurisdiction to be dealt with according to law.

Pawnbroker's book subject to examination.

34. It shall be lawful for a Magistrate, by an order served on any pawnbroker, to require such pawnbroker to attend before him on a day and hour to be specified in the order, and to produce for examination all books and papers relating to his business; and every pawnbroker on whom any order is served under this section shall comply with the requirements of such order.

Power to search pawnbroker's shop or residence.

35. It shall be lawful for any officer of police not below the rank of Sub-Inspector or any chief headman to enter any pawnbroker's shop or place of business or residence at any hour of the day and examine and take note of any article pledged with the pawnbroker, or any books and papers kept by him; and no person shall resist such officer of police or chief headman in the execution of his duty.

PART V.

Offences, Penalties and Proceedings in Court

Offences by pawners and other persons.

36. Every person who—

- (a) offers to a pawnbroker an article by way of pawn but refuses or is unable to give a satisfactory account of the means by which he became possessed of it; or
- (b) wilfully gives false information to a pawnbroker as to whether an article offered by him in pawn to the pawnbroker is his own property or not, or as to his name and address, or as to the name and address of the owner of the article; or
- (c) attempts or endeavours to redeem a pledge not being a person entitled to redeem such pledge; or
- (d) without lawful excuse pawns with a pawnbroker anything being the property of another person; or
- (e) makes a declaration under this Ordinance either for himself or as identifying another, knowing such declaration to be false in any material particular; or
- (f) contravenes any provision of this Ordinance or fails to do anything which he is required to do by this Ordinance,

shall be guilty of an offence.

Offences by pawnbrokers.

37. Every pawnbroker who—

- (a) while any licence issued to him under this Ordinance is in force, applies for or obtains another licence under this Ordinance; or

- (b) is found to have had outstanding at any one time by way of loans on articles taken by him on pawn an amount in excess of the amount specified or endorsed on the licence issued to him and in force at that time ; or
- (c) is absent from Ceylon for any period exceeding three months without having had his licence transferred for the period of his absence in accordance with the requirements of section 10 , or
- (d) takes an article in pawn from any person appearing to be under the age of sixteen years or to be intoxicated ; or
- (e) takes an article in pawn without giving the pawner the foil of the pawn ticket ; or
- (f) purchases, or takes in pawn or exchange, the foil of a pawn ticket issued by another pawnbroker ; or
- (g) employs any servant apparently under the age of twenty-one years to take articles in pawn ; or
- (h) purchases, except at a sale by public auction under this Ordinance, any pledge while in pawn with him ; or
- (i) suffers any pledge while in pawn with him to be redeemed with a view to his purchasing it ; or
- (j) agrees with any person, pawning or offering to pawn any article, to purchase, sell or dispose of such article within the period of redemption , or
- (k) sells or otherwise disposes of any pledge pawned with him, except at such time and in such manner as is authorised by this Ordinance ; or
- (l) makes any false entry in any book required to be kept by him under this Ordinance or fails to make therein any entry which he is required to make by this Ordinance ; or
- (m) seizes or detains any person under the provisions of section 20 or section 33 without reasonable or probable cause ; or
- (n) does any act in contravention of the provisions of this Ordinance .

shall be guilty of an offence.

38. Every pawnbroker who knowingly takes in pawn any linen or apparel, or unfinished goods or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish, or make up, shall be guilty of an offence, and where any court convicts any pawnbroker of an offence under this section the court may, in addition to any other punishment which it may impose for that offence, order the pawnbroker to restore the pledge to the owner thereof in the presence of the court or as the court directs.

Prohibition of taking in pawn linen, clothing, unfinished goods, &c., in certain cases.

39. Every pawnbroker who fails to deposit in the Kachcheri the amount lying to the credit of a pawner as required by section 28 or section 29 shall be guilty of an offence ; and where any court convicts any pawnbroker of such offence, the court may, in addition to any other punishment which it may impose for that offence, order a sum equal to such amount to be recovered from that pawnbroker as though it were a fine imposed by the court. Every such sum when recovered by the court shall be credited to the general revenue.

Pawnbroker failing to deposit in Kachcheri money lying to the credit of a pawner.

40. Anything done or omitted to be done by the servant or agent of a pawnbroker in the course of or in relation to the business of a pawnbroker shall be deemed to be done, or omitted, as the case may be, by the pawnbroker :

Offences by servant or agent of pawnbroker.

Provided that where, in the absence of a pawnbroker from his shop or place of business, anything is done or omitted to be done by any servant or agent of the pawnbroker in contravention of any provision of this Ordinance such servant or agent shall also be guilty of an offence and shall be liable on conviction to the penalty prescribed for that offence by this Ordinance.

41. Every person who is guilty of an offence under this Ordinance shall be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Penalty.

42. (1) Where a pawnbroker fails, at any time during the period of the validity of his licence, to keep deposited or hypothecated, as the case may be, security in the required amount in accordance with the provisions of section 9, the Government Agent may cancel the licence issued to that pawnbroker.

Cancellation of pawnbroker's licence.

(2) Where a pawnbroker or, in his absence, any agent or servant of the pawnbroker is convicted of any offence under

this Ordinance, or of any fraud in his business, or of receiving stolen goods knowing them to be stolen, the Government Agent may after the first conviction and shall after the second, cancel the licence issued to that pawnbroker.

Articles in
unlawful
possession of
pawnbroker.

43. Whenever, in any proceeding under this Ordinance, it is made to appear to a court that any article is in the unlawful possession of any pawnbroker, it shall be competent to such court to order the production of the article and its delivery to any person named by such court, under such terms, if any, as it may think proper.

Forfeiture of
pawnbroker's
security.

44. (1) Where a court convicts a pawnbroker of any offence under this Ordinance, and it is shown to the satisfaction of the court that any pawner has suffered any loss or damage by reason of that offence, the court may, in addition to any other punishment that it may impose for that offence, order the pawnbroker to pay within a specified time to the pawner as compensation for the loss or damage such sum as the court may in its discretion determine.

(2) Where any pawnbroker against whom an order is made under sub-section (1) fails to comply with the order within the specified time, the court may order the sum, which the pawnbroker was required to pay to the pawner, to be recovered out of the security in money furnished by the pawnbroker under section 9, and if no security or no sufficient security in money has been furnished by the pawnbroker, the court may order the entire sum or the amount outstanding, as the case may be, and due to the pawner, to be recovered by the sale of the immovable property hypothecated by the pawnbroker under section 9.

(3) Every sale of immovable property in pursuance of the provisions of this section shall be conducted by a person authorised in that behalf in writing by the court.

(4) The court shall cause notice of the date, time and place of every sale of immovable property under this section to be published in the *Gazette* not less than fourteen days before the date fixed for the sale, and shall cause copies of such notice to be—

- (a) despatched to the pawnbroker who furnished such property as security;
- (b) posted on or near the property which is to be sold; and
- (c) affixed to the walls of the Kacheheri and the several District Courts and Magistrates' Courts within the jurisdiction of which the property is situate.

(5) Where any immovable property furnished as security by any pawnbroker is sold in pursuance of the provisions of this section, the court shall, after deducting from the proceeds of sale the amount due to the pawner and the costs of advertising the sale and of selling such property, pay the balance, if any, to the Government Agent, and the Government Agent shall hold such balance in like manner as if it were the deposit or part of the deposit of moneys made by that pawnbroker under section 9:

Provided, however, that in any case where such balance exceeds the amount of the security to be furnished by the pawnbroker under section 9, the Government Agent shall pay such excess to the pawnbroker.

Certificate
of sale.

45. (1) Where any immovable property furnished as security by a pawnbroker is sold under section 44, the judge of the court which ordered the sale shall sign a certificate of sale, and thereupon all the right, title and interest of the pawnbroker to and in such property shall vest in the purchaser, nor shall any person claiming through or under any disposition whatsoever of the pawnbroker's right, title, or interest to and in such property made or registered subsequently to the hypothecation of such property under section 9 be able in any court of law to move to invalidate the sale for any cause whatsoever or to maintain any right, title, or interest to or in such property as against the purchaser. Such certificate shall be conclusive proof with respect to the sale of any property that all the provisions of this Ordinance have been observed.

(2) Every certificate of sale under this section shall be substantially in the form H set out in the Second Schedule, and shall be liable to the stamp duty and charges fixed for conveyance of the immovable property, and to any registration or other charges authorised by law, all of which shall be payable by the purchaser.

Order for
delivery of
possession.

46. (1) The purchaser of any property sold in pursuance of the provisions of section 44 shall, upon application made to the District Court having jurisdiction over the place where the property is situate, and upon production of the certificate of sale issued in respect of the property under section 45, be entitled to obtain an order for delivery of possession of the property.

(2) Every application under sub-section (1) shall be made, and shall be disposed of, by way of summary procedure in accordance with the provisions of Chapter XXIV. of the Civil Procedure Code; and on all documents filed for the purposes of each such application and on all proceedings held thereupon, stamp duties and other charges shall be payable at the respective rates payable under any written law for the time being in force, on applications for, and proceedings connected with or incidental to, the execution of a decree of a District Court for the delivery of possession of a land of the same value as the property to which such application relates.

(3) Where the property sold in pursuance of the provisions of section 44 is in the occupancy of the pawnbroker who furnished such property as security, or of some person on his behalf or of some person claiming under a title created by the pawnbroker subsequently to the hypothecation of such property under section 9, the District Court shall order delivery to be made by putting the purchaser, or any person whom he may appoint to receive possession on his behalf, in possession of the property.

(4) Where the property sold in pursuance of the provisions of section 44 is in the occupancy of a tenant or other person entitled to occupy the same, the District Court shall order delivery to be made by affixing a notice that the sale has taken place, in the English and in the Sinhalese or Tamil language, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the pawnbroker has been transferred to the purchaser. The cost of such proclamation shall be fixed by the court and shall in every case be prepaid by the purchaser.

(5) Every order under sub-section (3) or sub-section (4) shall be deemed, as the case may be, to be an order for delivery of possession made under section 287 or section 288 of the Civil Procedure Code, and may be enforced in like manner as an order so made, the pawnbroker and the purchaser being deemed, for the purpose of the application of any provision of that Code, to be the judgment-debtor and judgment-creditor, respectively.

Cap 86.

PART VI.

Supplementary.

47. Anything by this Ordinance required or authorised to be done by a pawnbroker may be done by his servant or agent.

Agents,
servants,
&c., of a
pawnbroker

48. For the purposes of this Ordinance the following persons shall be deemed to be persons carrying on business of taking goods in pawn, that is to say, every person who keeps a shop for the purchase or sale of goods, or for taking in goods by way of security for money advanced thereon, and who purchases or receives or takes in goods and pays or advances or lends thereon any sum of money, with or under an agreement or understanding expressed or implied, or to be from the nature and character of the dealing reasonably inferred, that those goods may be afterwards redeemed or re-purchased on any terms, and every such transaction, article, payment, advance, and loan shall be deemed a pawning, pledge, and loan, respectively, within this Ordinance.

Keepers of
certain shops
to be deemed
pawnbrokers.

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

Interpretation.

“appointed date” means the date appointed by the Governor by Proclamation under section 2-(1);

“district” means a revenue district;

“Government Agent” includes an Assistant Government Agent,

“month” means a period of thirty days for the purpose of charging profit or interest;

“pawnbroker” includes every person who carries on the business of taking goods in pawn;

“pawner” means a person delivering an article for pawn to a pawnbroker;

“pledge” means an article pawned with a pawnbroker;

“shop” includes a dwelling house, warehouse, place of business, and any place where business is transacted,

“sign” with its grammatical variations and cognate expressions means, in the case of a person who is unable to write his name, the impression in ink or some other suitable medium of the left thumb of that person;

Form C.

Sale Book of Pledges.

[Section 15.]

Date and Place of Sale : _____.

Name and Address of Auctioneer : _____.

No. of Pledge as in Pledge Book.	Date of Pawning.	Name of Pawner.	Amount of Loan.	Amount of Interest due.	Amount for which each Pledge was sold by Auctioneer.	Name and Address of Purchaser.
			Rs. c.	Rs. c.	Rs. c.	

Form D.

Pawn Ticket.

[Section 16.]

Counterfoil. No. — * Foil. No. —

To be retained by Pawnbroker

Date : — * Date. —

Name and address of pawn- * (name and address of
broker — * pawner) has this day pawned with

I, the undersigned, — of * the undersigned — (name and
(address of pawner) — have * address of pawnbroker) —
this day pawned with the aforesaid * worth Rs — for Rs. —
pawnbroker — worth Rs. — *
for Rs. —.

Signature of pawner, or } * Signature of pawnbroker }
left thumb impres- } * or servant or agent of }
sion of pawner if } * pawnbroker }
unable to write his } * name }

Form E.

*Declaration where the Foil of the Pawn Ticket is surrendered
under Section 20 without the Signature of the Pawner-
endorsed thereon.*

[Section 20.]

I, A. B., _____, of _____, in pursuance of the Pawn-
brokers Ordinance, do solemnly and sincerely declare that
_____ pledged at the shop of _____ Pawnbroker the
article/s described below and received the foil of a pawn ticket for
the same and that for the purpose of redeeming the pledge I am
unable to surrender the foil of the pawn ticket to the Pawnbroker
with the signature of the said _____ (pawner) duly endorsed
thereon, because the said _____ (pawner) is dead/under a legal
disability, to wit _____ (nature of legal disability).

The article/s above referred to is/are _____.

I, C. D., _____ in pursuance of the same Ordinance, do
solemnly and sincerely declare that I know the person now making
the foregoing declaration to be A. B. _____ of _____.

Declared before me this _____ day of _____, 19—.

Signature of A. B. _____.

Signature of C. D. _____.

Justice of the Peace.

Form F.

Declaration where the Foil of the Pawn Ticket is lost, &c.

[Section 22.]

Take notice, if this declaration is false the person making
it is punishable.

I, A. B., of _____, in pursuance of the Pawnbrokers Ordi-
nance, do solemnly and sincerely declare that _____
pledged at the shop of _____, Pawnbroker, the article (or
articles) described below, being _____, property, and received
the foil of the pawn ticket for the same, which has since been
_____ by _____, and that the foil of the pawn ticket has
not been sold or transferred to any person by _____ or to
_____ knowledge or belief.

The article (or articles) above referred to is (or are) the
following : _____.

And I, C. D., of _____, in pursuance of the same Ordinance,
do solemnly and sincerely declare that I know the person now
making the foregoing declaration to be A. B. of _____.

Declared before me this _____ day of _____, 19—.

Justice of the Peace.

Form G.

[Section 25.]

Receipt.

Date: _____.

Received on redemption of Pledge No. ---:

Rs. c.

Amount of loan
Profit or interest

Total . _____

Form H.

[Section 45.]

Certificate of Sale.

In the Magistrate's Court of _____.

WHEREAS _____, a pawnbroker licensed under the Pawnbrokers Ordinance, No. _____ of _____ was, on the _____ day of _____, convicted by this Court of an offence under section _____ of that Ordinance:

And whereas this Court, under section 44 of that Ordinance, ordered the said pawnbroker to pay within _____ days to _____, a pawner, the sum of _____ rupees and _____ cents as compensation for the loss or damage suffered by the said pawner by reason of that offence:

And whereas the said pawnbroker failed to comply with such order of the Court:

And whereas the Court ordered the said sum of _____ rupees and _____ cents to be recovered under the said section 44 by the sale of the property called and known as _____ more fully described in the Schedule hereto:

And whereas the said property was sold in conformity with the provisions of the Pawnbrokers Ordinance, No. _____ of _____, on the _____ day of _____ and was purchased by _____ of _____ for the sum of _____ rupees and _____ cents, which said sum has been duly paid by the said _____.

Now know Ye that I, _____, Magistrate of the said Court, by virtue of the powers vested in me by section 45 of the Pawnbrokers Ordinance, No. _____ of _____, do hereby certify that the property more fully described in the Schedule hereto has been sold to _____ and purchased by the said _____ for the sum of _____ rupees and _____ cents, which he has duly paid, and that the right, title and interest of the said _____ (pawnbroker), to and in such property shall henceforward, be vested in the said _____ (purchaser) his heirs, executors, administrators, and assigns.

Given under my hand at _____ this _____ day of _____.

Magistrate.

Schedule.

(Here describe the property with special reference to metes and bounds).

[Sections 13
and 17.]

THIRD SCHEDULE.

Rates of Interest Chargeable by Pawnbrokers.

A.—On a loan of twenty rupees or under: Cents.

For any time during which the pledge remains in pawn not exceeding one month, for every rupee or fraction of a rupee lent 1

For every month after the first, including the current month in which the pledge is redeemed, although that month is not expired, for every rupee or fraction of a rupee lent 1

If the pledge is redeemed before the end of the first fourteen days after the expiration of any month, the pawnbroker shall, in respect of those fourteen days, be entitled to take half of the amount which he would be entitled to take for the whole month.

B.—On a loan of above twenty rupees:

For every month or part of a month, for every sum of one rupee and twenty-five cents or fraction of a sum of one rupee and twenty-five cents 1

C.—Restriction on recovery of enhanced interest.

Where a pawnbroker is entitled to enhanced interest as from any date, such enhanced interest shall not be recoverable if the pawner shows to the satisfaction of a civil court of competent jurisdiction that he failed to redeem the pledge before such date only because the pawnbroker's shop remained closed between 8 A.M. and 8 P.M. on the day preceding that date.

If the pawn to which this ticket relates is not redeemed within a period of twelve months from the day of pawning, it will be sold within three months from the expiry of the said period.

If the surplus profits, if any, from the sale are not claimed by the pawner within one year from such sale, the said profits will be credited to general revenue.

FOURTH SCHEDULE.

[Section 26]

Regulations Relating to Auctions of Pledges.

1. The auctioneer shall cause all pledges to be exposed to public view.
2. He shall publish catalogues of the pledges, stating—
 - (a) the pawnbroker's name and place of business ;
 - (b) the month in which each pledge was pawned ;
 - (c) the number of each pledge as entered at the time of pawning in the pledge book.
3. The pledges of each pawnbroker in the catalogue shall be separate from any pledges of any other pawnbroker
4. The auctioneer shall insert in some public newspaper an advertisement giving notice of the sale, and stating—
 - (a) the pawnbroker's name and place of business ;
 - (b) the months in which the pledges were pawned.
5. The advertisement shall be inserted on two several days in the same newspaper, and the second advertisement shall be inserted at least ten clear days before the first day of sale.
6. Where a pawnbroker bids at a sale, the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale ; and the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser.
7. The auctioneer shall, within fourteen days after the sale, deliver to the pawnbroker a copy of the catalogue, or of so much thereof as relates to the pledges of that pawnbroker, filled up with the amount for which the several pledges of that pawnbroker were sold, and authenticated by the signature of the auctioneer.
8. The pawnbroker shall preserve every such catalogue for two years at least after the auction.

Objects and Reasons.

The object of this Bill is to give effect to the recommendations made by the Sub-Committee which was appointed by the Executive Committee of Home Affairs to investigate the question of the revision of the Pawnbrokers Ordinance (Chapter 75)

2. The Bill is to apply to all the places which were within the operation of the Pawnbrokers Ordinance. These places are specified in the First Schedule to the Bill. Power is taken in Clause 2 to bring other places within the operation of the Bill.

3. Most of the provisions of the Pawnbrokers Ordinance are re-enacted in this Bill. Some of the principal recommendations made by the Sub-Committee and to which effect is given in the Bill are set out hereunder.

4. The Bill is to apply to pawnbrokers, whatever the sum lent by them may be. Section 4 of the Pawnbrokers Ordinance has therefore not been re-enacted in this Bill. That Ordinance also, made a distinction between pledges pawned for five rupees or under and pledges pawned for more than five rupees. No such distinction is drawn in this Bill, the provisions of which will accordingly apply to all pledges irrespective of the amount lent thereon.

5. No licence for carrying on the business of a pawnbroker will be issued to any person who has not been resident in Ceylon for a period of five years (Clause 6). No person will be entitled to more than one such licence (Clause 7), and no licence will be issued in respect of more than one shop or place of business. The licence duty is being raised from twenty rupees to forty rupees (Clause 3).

6. Every applicant for a pawnbroker's licence is required to furnish security for the due discharge of his duties and liabilities under the Bill (Clause 9). The security may be given either by the deposit of money or by the hypothecation of immovable property or in both such ways. The security is to be held for the benefit of pawners who may suffer any loss or damage by reason of any offence committed by the pawnbroker. The procedure for the realization of the security is set out in Clauses 44 to 46.

7. Clause 10 requires a pawnbroker to reside within the limits of the district in which his shop or place of business is situated. Where a pawnbroker intends to be absent from Ceylon for a period exceeding three months, he must inform the Government Agent and have the licence transferred for the period of his absence, to some other person appointed by him.

8. The rate of interest chargeable by pawnbrokers is being lowered. (Clause 17 and Third Schedule).

9. All pledges which are not redeemed within the period of redemption are to be sold by public auction (Clause 26). Where a pledge is sold for more than the amount of the loan and interest due to the pawnbroker, the pawner is entitled to claim the excess within one year from the date of the sale. Where no such claim is made within the said period of one year, the pawnbroker is required to deposit such excess to the credit of the general revenue (Clauses 28 and 29). Notice must be given by the pawnbroker to every pawner whose pledge is to be sold (Clause 27), and to every pawner whose pledge is sold for more than the amount of the loan and interest due from him (Clause 28).

D. B. JAYATILAKA,
Minister for Home Affairs.

Colombo, December 17, 1941.