



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY

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PART II.—LEGAL.

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

DRAFT ORDINANCES.

MINUTE.

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

L. D.—CF. 25/40

C. S. O.—CF. D. 515/39

An Ordinance to make provision for the reinstatement in civil employment of members of volunteer forces in cases where such employment is terminated on the ground that such members are called out for war service.

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 Volunteer Forces (Reinstatement in Civil Employment) Ordinance, No. of 1940.

Short title.

2. (1) It shall be the duty of the employer, by whom a member of a volunteer force called out for war service, whether before or after the commencement of this Ordinance, was or is employed when so called out for war service, to reinstate him in his employment at the termination of that war service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called out.

Reinstatement
in civil
employment.

(2) An employer who fails to comply with the provisions of sub-section (1) shall, subject to the provisions of sub-section (4), be guilty of an offence under this Ordinance and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

(3) Notwithstanding any limitation of a Magistrate's ordinary powers or jurisdiction, the Magistrate by whom an employer is found guilty of an offence under this Ordinance may, in addition to any other punishment which may lawfully be imposed for such offence, order the employer to pay to the person whom he has failed to reinstate a sum not exceeding an amount equal to six months' remuneration at the rate at which remuneration was last payable to him by the employer; and such sum shall be recoverable in like manner as a fine imposed by the Magistrate and may, when so recovered, be paid to the person in whose favour the order was made.

(4) In any prosecution of an employer for any offence under this Ordinance, it shall be a defence for the employer to prove that the person formerly employed by him did not, before the expiration of one month after the termination of his war service, apply to the employer for reinstatement or that, having been offered reinstatement, he failed without reasonable excuse to present himself for employment at the time and place notified to him by the employer, or that by reason of a change of circumstances (other than the engagement of some other person to replace him)—

- (a) it was not reasonably practicable to reinstate him; or
- (b) his reinstatement in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been called from his employment for war service, was impracticable, and that the employer has offered to reinstate him in the most favourable occupation and under the most favourable conditions reasonably practicable.

Offences by corporations and partnerships.

3. (1) Where the employer convicted of an offence under this Ordinance is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the said offence.

(2) Where the employer convicted of an offence under this Ordinance is a partnership, every person who, at the time of the commission of the offence, was a partner of that partnership shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of that offence.

Interpretation.

4. In this Ordinance—

“employer” includes a body of persons, whether corporate or unincorporate, but does not include the Crown; and, in relation to any person called out from his employment for war service, includes any person for the time being carrying on the undertaking or business in which he was employed when so called out; or carrying on any undertaking or business with which that undertaking or business has been amalgamated or in which it was comprised on the date on which he was so called out for war service;

“volunteer force” means the Ceylon Defence Force or the Ceylon Naval Volunteer Force;

“war service” means active service within the meaning of the Defence Force Ordinance or actual service within the meaning of the Naval Volunteer Ordinance and the regulations thereunder.

Cap. 258.

Cap. 254.

Objects and Reasons.

The object of this Bill, which is modelled on the corresponding provisions of the National Service (Armed Forces) Act, 1939, of the Imperial Parliament, is to secure that every member of the Ceylon Defence Force or of the Ceylon Naval Volunteer Force who has been mobilised for war service shall, on the conclusion of such service, be reinstated in the civil employment in which he was engaged at the time he was so mobilised.

2. Clause 2 declares that it shall be the duty of every employer to reinstate in his employ any member of a volunteer force called out for war service, whether before or after the enactment of the new law. An employer who fails to do so will be guilty of an offence punishable with fine and imprisonment and will, in addition, be liable to compensate the person whom he fails to reinstate by payment of a sum not exceeding six months' salary which will be recovered as a fine imposed by a Magistrate.

The Secretariat,
Colombo, November 5, 1940.

G. S. WODEMAN,
Chief Secretary.

MINUTE.

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

L. D.—O 64/39

D 120/38

An Ordinance to amend the Passport Ordinance.

Chapter 250
(Volume VI.,
page 38).

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 Passport Amendment Ordinance, No. of 1940.

Short title.

2. Section 5 of the Passport Ordinance is repealed and the following section is hereby substituted therefor :—

Replacement
of section 5
of Chapter 250.

5. (1) (a) Where any person has been convicted of the offence of having entered or remained in Ceylon in contravention of any regulation made under section 3, the Governor may, in lieu of or in addition to any punishment which may have been imposed for that offence, by order under his hand (hereinafter referred to as a "removal order"), require that person to leave and to remain thereafter out of Ceylon.

Removal
from Ceylon
of persons
contravening
regulations.

(b) The Governor may insert in any removal order any such conditions as he may think fit.

(2) A person with respect to whom a removal order is made shall leave Ceylon in accordance with the order and shall thereafter, as long as the order is in force, remain out of Ceylon.

(3) Any person with respect to whom a removal order is made may be arrested without warrant by any peace officer, and may be detained in such manner as the Governor may direct, and may be placed on a ship or aircraft about to leave Ceylon, and shall be deemed to be in legal custody whilst so detained and until the ship or aircraft finally leaves Ceylon.

(4) Any person arrested under sub-section (3) may be released from custody for such period, and upon such conditions as to the giving of security or otherwise, as the Governor may determine.

(5) The master of any ship or the pilot of any aircraft about to call at any port or place outside Ceylon, shall, if so required by the Governor or any police officer of a rank not below that of Superintendent of Police, receive any person in respect of whom a removal order is made, and his dependants, if any, on board the ship or aircraft, and afford him and them a passage to that port or place and proper maintenance and accommodation during the passage.

(6) Where a removal order is made in respect of any person, the Governor may, if he thinks fit, apply any money or property of that person in payment of the whole or any part of the expenses of or incidental to the voyage from Ceylon and the maintenance until departure of that person and his dependants, if any; and such expenses shall, except in so far as they are defrayed as hereinbefore provided, be payable out of the general revenue of Ceylon.

(7) The Governor may at any time in his discretion vary or revoke any removal order.

(8) In this section—

(a) the expressions "master" and "ship" shall have, respectively, the same meanings as in the Customs Ordinance;

Cap. 185.

(b) the expression "peace officer" shall have the same meaning as in the Criminal Procedure Code.

Cap. 16.

Objects and Reasons.

Section 5 of the Passport Ordinance enables the Governor to direct the removal from Ceylon of persons who enter Ceylon in contravention of the Passport Regulations. The section does not, however, apply in the case of a person who attempts to remain in Ceylon after the expiry of the validity of the visa or permit under which he is allowed to land, nor does it contain provision for the arrest and detention of a person in respect of whom an order of removal is made and for securing his departure from Ceylon.

The object of this Bill is to replace section 5 of the Ordinance by a new section containing more detailed provision as to the circumstances in which a removal order may be made and the manner in which effect can be given to the order. The provisions of the new section have been based substantially on corresponding provisions contained in Article 12 of the English Aliens Order, 1920, made by His Majesty in Council under the Aliens Restriction Act, 1914, of the Imperial Parliament.

Chief Secretary's Office,
Colombo, September 13, 1940.

G. S. WODEMAN,
Chief Secretary.