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

	PAGE		PAGE
Governor's Ordinances	—	Notices in Insolvency Cases	842
Passed Ordinances	781	Council of Legal Education Notices	—
List of Notaries	—	Notices of Fiscals' Sales	842
Notifications of Criminal Sessions of the Supreme Court	842	Notices in Testamentary Actions	844
Supreme Court Notices	—	Draft Ordinances	846
District and Minor Courts Notices	842	Miscellaneous	—

PASSED ORDINANCES.

Ordinance enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof.

No. 45 of 1942.

An Ordinance to make provision for the Safety and Welfare of Workers in Factories.

A. CALDECOTT.

TABLE OF SECTIONS.

1. Short title, commencement and savings.

PART I.

REGISTRATION.

2. Registration of factories to be obligatory.
3. Registration of factories established after the commencement of this Ordinance.
4. Registration of factories established before the commencement of this Ordinance.
5. Fees.

PART II.

HEALTH (GENERAL PROVISIONS).

6. Cleanliness.
7. Overcrowding.
8. Regulations increasing amount of cubic space allowed for each person.
9. Calculation of amount of cubic space in rooms.
10. Notice of number of persons employed to be posted in each workroom.
11. Temperature.
12. Ventilation.
13. Lighting.
14. Drainage of floors.
15. Sanitary conveniences.
16. Power to require medical supervision.

PART III.

SAFETY (GENERAL PROVISIONS).

17. Prime movers.
18. Transmission machinery.
19. Other machinery.
20. Provisions as to unfenced machinery.
21. Construction and maintenance of fencing.
22. Construction and sale of new machinery.
23. Vessels containing dangerous liquids.
24. Self-acting machines.
25. Cleaning of machinery by women and young persons.
26. Training and supervision of young persons working at dangerous machines.
27. Hoists and lifts.
28. Chains, ropes, and lifting tackle.
29. Cranes and other lifting machines.
30. Construction and maintenance of floors, passages, and stairs.
31. Safe means of access and safe place of employment.
32. Precautions in places where dangerous fumes are liable to be present.

33. Precautions with respect to explosive or inflammable dust, gas, vapour or substance.
34. Steam boilers.
35. Steam receivers and steam containers.
36. Air receivers.
37. Exceptions as to steam boilers, steam receivers and containers, and air receivers.
38. Precautions as respects water-sealed gasholders.
39. Means of escape in case of fire.
40. Regulations as to means of escape in case of fire.
41. Safety provisions in case of fire.
42. Instruction as to use of means of escape in case of fire.
43. Power of Registrar to require special safety arrangements for the prevention of accidents.
44. Power of Registrar to make orders as to dangerous conditions and practices.
45. Regulation of the use of other machinery.

PART IV.

WELFARE (GENERAL PROVISIONS).

46. Supply of drinking water.
47. Regulations as to washing facilities.
48. Accommodation for clothing.
49. Facilities for resting for female workers.
50. First aid.

PART V.

HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS).

51. Removal of dust or fumes.
52. Meals in certain dangerous trades.
53. Protection of eyes in certain processes.
54. Shuttle threading by mouth suction.
55. Prohibition of use of white phosphorus in manufacture of matches.
56. Underground rooms.
57. Laundries.
58. Lifting excessive weights.

Special Regulations for Safety and Health.

59. Power to make special regulations for safety and health.

Supplementary Provisions.

60. Power to take samples.

PART VI.

NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND INDUSTRIAL DISEASES.

61. Notification of accidents.
62. Power to extend to dangerous occurrences provisions as to notice of accidents.
63. Notification of industrial diseases.
64. Investigation into case of death by accident or industrial disease.
65. Power to direct formal investigation of accidents and cases of disease.
66. Duty of examining surgeon to investigate and report in certain cases.

PART VII.

EMPLOYMENT OF WOMEN AND YOUNG PERSONS.

Hours and Holidays.

67. General conditions as to hours of employment of women and young persons.
68. Overtime employment of women and young persons over sixteen.
69. Definition of "overtime employment".
70. Register of overtime.
71. Restriction of employment inside and outside factory on same day.
72. Prohibition of use of rooms during intervals.
73. Weekly and annual holidays.
74. Exception as to women holding positions of management.
75. Power to suspend certain provisions of Part VII. in emergency.
76. Provision for protection of women and young persons employed under exceptions.
77. Power of inspector to require certificate of fitness for work.

PART VIII.

SPECIAL APPLICATIONS AND EXTENSIONS.

Premises in respect of which Owner is liable.

78. Premises where part of building is separate factory.

Electrical Stations.

79. Application of Ordinance to electrical stations.

Institutions.

80. Institutions.

Docks, Wharves, Quays, Warehouses and Ships.

81. Docks, &c.
82. Ships.

Works of Building and Engineering Construction.

83. Building operations.
84. Works of engineering construction.

*Lead Processes carried on in Places other than
Factories.*

85. Employment of women and young persons in places other than factories in processes connected with lead manufacture or involving the use of lead compounds.

PART IX.**HOME WORK.**

86. Lists of outworkers to be kept in certain trades.
87. Employment of persons in unwholesome premises.

PART X.**MISCELLANEOUS.**

88. Notice of use of mechanical power.
89. Posting of abstract of Ordinance and notices.
90. Provisions as to special regulations.
91. General registers.
92. Preservation of registers and records.
93. Periodical return of persons employed.
94. Duties of persons employed.
95. Weights, measures and weighing and measuring instruments used in ascertaining wages.

PART XI.**ADMINISTRATION.**

96. Registrar and Deputy and Assistant Registrars.
97. Factories Advisory Board.
98. Appointment of chief inspector and inspectors of factories.
99. Powers of inspectors.
100. Powers, &c., of inspector to be exercised by other officer in certain cases.
101. Certificate of appointment of inspector.
102. Appointment and duties of examining surgeons.
103. Regulations.

PART XII.**APPEALS.**

104. Board of Appeal.
105. Appeals.

PART XIII.**SUPPLEMENTARY.***Offences, Penalties and Legal Proceedings.*

106. Offences.
107. Fines for offences for which no express penalty provided.
108. Power of court to order cause of contravention to be remedied.
109. Fines in case of death or injury.
110. Fine for offence by parent.
111. Forgery of certificates, false entries, and false declarations.
112. Penalty on persons actually committing offence for which occupier is liable.
113. Power of occupier or owner to exempt himself from liability on conviction of the actual offender.
114. Proceedings against persons other than occupiers or owners.
115. Owner of machine liable in certain cases instead of occupier.
116. Prosecution of offences and recovery and application of fines.
117. Special provisions as to evidence.
118. Service and sending of documents, &c.
119. Certificates of birth.
120. Power of District Court to modify agreements.
121. Power of District Court to apportion expenses.

PART XIV.**APPLICATION OF ORDINANCE.**

122. General application of Ordinance.
123. Application to factories belonging to the Crown.

PART XV.**INTERPRETATION AND GENERAL.***Interpretation.*

124. Interpretation of expression "factory".
125. General interpretation.
126. Application of Ordinance to young persons employed in factories in certain occupations.

General.

127. Inspection of certain premises.
128. Expenses of Registrar.
129. Mines and Machinery Ordinance to cease to apply to factories.

**An Ordinance to make provision for the Safety and
Welfare of Workers in Factories.**

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

1. (1) This Ordinance may be cited as the Factories Ordinance, No. 45 of 1942, and shall, except as otherwise provided, come into operation on such date as the Governor may appoint by Proclamation published in the *Gazette* :

Provided that, if it is shown to the satisfaction of the Governor as respects any particular requirement contained

Short title,
commencement
and savings.

in Part III that by reason of substantial expenditure involved through the necessity of providing new, or altering existing, buildings or plant, or on account of other special difficulties, it would be right in the case either of factories generally or of any class or description of factory that the requirement should not come into operation on the date aforesaid, he may by order postpone the date of coming into operation of the said requirement, as respects factories generally or that class or description of factory, until such date as he may think fit; and any such order may direct that such corresponding provisions of any written law repealed by this Ordinance as may be specified in the order shall apply in lieu of the postponed requirement of this Ordinance.

(2) Save as otherwise provided in sub-section (3) of this section or in any other section of this Ordinance, the provisions of this Ordinance shall be in addition to and not in substitution for or diminution of the provisions of any other written law for the time being applicable to factories and to the employment of workers in factories in Ceylon.

(3) In any case of conflict or inconsistency between the provisions of this Ordinance or of any regulation made thereunder and any provision of any other written law made in pursuance of any power conferred upon any local authority, the provisions of this Ordinance or of such regulation shall prevail.

PART I.

REGISTRATION.

Registration of factories to be obligatory.

2. (1) Every factory in Ceylon, whether established before or after the appointed date, shall be registered in the manner hereinafter provided in this Part.

(2) For the purpose of the registration required by this Ordinance—

(a) a factory shall be deemed to be established on the date on which any of the actual operations of the factory, or any process or work of any kind other than the construction or renovation of buildings or the cleaning and preparation of the premises or the installation or repair of machinery or equipment, is commenced therein; and

(b) a factory in which work is resumed, after a period of total suspension, at any time subsequent to the appointed date shall—

(i) where the period of suspension exceeds one year, be deemed to be a factory established after that date, and

(ii) where the period of suspension does not exceed one year, be deemed to be a factory established before that date.

Registration of factories established after the commencement of this Ordinance.

3. (1) In respect of every factory which is established or deemed to be established after the appointed date, a written declaration in accordance with the requirements of this section shall be furnished to the Registrar, and a certificate of provisional registration obtained from him, before any one of the actual operations of the factory is commenced therein.

(2) Every declaration under this section shall be under the hand of the owner or owners or of the person, if any, who is to be the occupier or the manager of the factory, and shall contain a full statement of the following particulars:—

(a) the situation and nature of the factory;

(b) the name and address of the owner or each of the owners and of the occupier and of the manager, if any;

(c) the probable maximum number of workers of each sex to be employed therein;

(d) particulars of the machinery and protective devices installed or to be installed, and of the buildings and the sanitary and other equipment provided or to be provided, together with such sketch plans and other information as may be prescribed; and

(e) the date on which it is proposed to commence the actual operations of the factory.

(3) The date, on or before which the declaration under this section may be furnished to the Registrar, shall—

(a) in the case of a new factory, be not less than one month, and

(b) in the case of a factory re-opened after suspension of work, be not less than fifteen days,

before the date specified in the declaration as the date on which it is proposed to commence the actual operations of the factory.

(4) On receipt of a declaration furnished under this section, the Registrar shall cause the particulars set out therein to be verified and if he is satisfied that provision for the health and safety of the prospective workers has been made substantially

in conformity with this Ordinance, or will be completed before the commencement of the actual operations of the factory, he shall register the factory provisionally and shall issue a certificate of such provisional registration.

(5) The certificate of provisional registration issued in respect of a factory shall be the authority for the opening of the factory and for the conduct of the actual operations of the factory during such period as may be specified in the certificate or until the final registration of the factory and the issue of a certificate of such final registration.

(6) Within three months after the commencement of the actual operations of any factory under the authority of a certificate of provisional registration, the Registrar shall cause a further inspection to be made of the buildings, equipment and machinery of the factory, and—

- (i) if he is satisfied that the provision made therein for the health and safety of the workers is adequate and substantially in conformity with the requirements of this Ordinance, he shall register that factory and issue a certificate of registration accordingly; or
- (ii) if, in his opinion, such provision is not adequate or is not substantially in conformity with the requirements of this Ordinance, he shall issue written directions as to such further measures or arrangements as he may deem necessary and defer the registration of that factory, and where it is necessary so to do, extend the duration of the certificate of provisional registration until such directions are complied with to his satisfaction.

(7) In any case where any directions issued by the Registrar under sub-section (6) are not complied with within such time as he may specify, the Registrar shall by written notice cancel the certificate of provisional registration issued in that case; and after such date as may be specified in such notice of cancellation, no work shall be carried on in that factory other than such work as may be necessary for or connected with the execution of the directions given by the Registrar.

(8) If the owner or occupier of the factory is aggrieved by any direction of the Registrar issued under sub-section (6) or by the cancellation of the certificate of provisional registration under sub-section (7), he may prefer an appeal, within twenty-one days of the direction or cancellation, to the Board of Appeal and, pending the final determination of the appeal, no offence shall be deemed to be committed under this section by reason that any such direction of the Registrar is not complied with or that the premises to which the appeal relates are used as a factory without a certificate of provisional registration being in force in respect thereto.

4. (1) In respect of every factory established before the appointed date, a written declaration under the hand of the owner or owners or of the occupier or the manager, if any, of the factory, shall, within two months after that date, be furnished to the Registrar; and every such declaration shall contain a full statement of the following particulars:—

- (a) the situation and nature of the factory;
- (b) the name and address of the owner or each of the owners and of the occupier and of the manager, if any;
- (c) the maximum number of workers of each sex employed; and
- (d) details of the machinery and protective devices installed, and of the buildings and the sanitary and other equipment provided.

(2) Where after such verification, as he may deem necessary, of any declaration furnished under sub-section (1) in respect of any factory, the Registrar is satisfied that the provision made for the health and safety of the workers in that factory is adequate and is substantially in conformity with the requirements of this Ordinance, he shall register the factory and issue a certificate of registration accordingly.

(3) Where the Registrar is of opinion that the provision made for the health and safety of the workers in any factory to which this section applies is not adequate or substantially in conformity with the requirements of this Ordinance, he shall issue written directions as to such further measures or arrangements as he may deem necessary for ensuring conformity with those requirements, and shall defer the registration of that factory until such directions are complied with to his satisfaction.

(4) In any factory established before the appointed date, no work other than such work as may be necessary for or connected with the execution of the directions given by the Registrar shall be carried on at any time after the expiry of two years from that date, unless that factory has been duly registered.

Registration of
factories
established
before the
commencement
of this
Ordinance.

(5) If the occupier of the factory is aggrieved by any direction of the Registrar issued under sub-section (3), he may prefer an appeal, within twenty-one days of the direction to the Board of Appeal and, pending the final determination of the appeal, no offence shall be deemed to be committed under this section by reason that any such direction of the Registrar is not complied with or that the premises to which the appeal relates are used as a factory without a certificate of registration being in force in respect thereto.

Fees.

5. A fee of one rupee shall be levied and paid in respect of each of the following matters —

- (a) the issue of a certificate of provisional registration in respect of a factory under section 3 ;
- (b) the registration of a factory and the issue of the certificate of registration in respect of that factory ;
- (c) the issue of a duplicate or certified copy of a certificate which is lost or destroyed.

PART II.**HEALTH (GENERAL PROVISIONS).****Cleanliness.**

6. Every factory shall be kept in a clean state, and free from effluvia arising from any drain, sanitary convenience or nuisance, and, without prejudice to the generality of the foregoing provision—

- (a) accumulations of dirt and refuse shall be removed daily by a suitable method from the floors and benches of workrooms, and from the staircases and passages ;
- (b) the floor of every workroom shall be cleaned at least once in every week by washing or, if it is effective and suitable, by sweeping or other method ;
- (c) all such measures as may be prescribed by regulations shall be taken to keep in a clean and sanitary condition all inside walls and partitions and all ceilings or tops of rooms and all walls, sides and tops of passages and staircases :

Provided that—

- (i) except where the inspector for the district in any case otherwise requires, the provisions of any regulations made under paragraph (c) of this section shall not apply to any factory where mechanical power is not used and less than ten persons are employed ; and
- (ii) where it appears to the Registrar that in any class or description of factory or parts thereof any of the foregoing provisions of this section are not required for the purpose of keeping the factory in a clean state, or are by reason of special circumstances inappropriate or inadequate for such purpose, he may, if he thinks fit, by order direct that those provisions shall not apply to factories, or parts of factories, of that class or description or shall apply as varied by the order.

Overcrowding.

7. (1) A factory shall not, while work is carried on, be so overcrowded as to cause risk of injury to the health of the persons employed therein.

(2) Without prejudice to the generality of the foregoing provision, a factory shall be deemed to be so overcrowded as aforesaid, if the number of persons employed at a time in any workroom is such that the amount of cubic space allowed for each person employed in the room is less than four hundred cubic feet :

Provided that, if the chief inspector is satisfied that owing to the special conditions under which the work is carried on in any workroom in which explosive materials are manufactured or handled, the application of the provisions of this sub-section to that workroom would be inappropriate or unnecessary, he may by certificate except the workroom from those provisions subject to any conditions specified in the certificate.

(3) As respects any room used as a workroom at the appointed date, the last foregoing sub-section shall, for the period of five years after that date and, if before the expiration of that period effective and suitable mechanical ventilation has been provided in the room, for a further period of five years, have effect as if for the reference therein to four hundred cubic feet there were substituted a reference to two hundred and fifty cubic feet :

Provided that this sub-section shall cease to apply to the room—

- (a) if the room passes into the occupation of any person other than the person who was the occupier thereof at the appointed date, or his successor in the same business ; or

- (b) if, during the first of the said periods, the inspector for the district requires the provision of effective and suitable mechanical ventilation in the room and default is made in complying with the requirement; or
- (c) if, during the second of the said periods or in a case where it has been provided in pursuance of the inspector's requirement during either of those periods, the effective and suitable mechanical ventilation provided in the room ceases to be maintained.

8. The Executive Committee may make regulations, as respects any class or description of factory or parts thereof or any process, increasing the number of cubic feet which must under section 7 be allowed for every person employed in a workroom of a factory.

Regulations increasing amount of cubic space allowance for each person.

9. In calculating for the purposes of section 7 the amount of cubic spaces in any room, no space more than fourteen feet from the floor shall be taken into account, and, where a room contains a gallery, the gallery shall be treated for the purposes of section 7 as if it were partitioned off from the remainder of the room and formed a separate room.

Calculation of amount of cubic space in rooms.

10. Unless the inspector for the district otherwise directs, there shall be posted in each workroom in a factory a notice specifying the number of persons, who, having regard to the provisions of section 7, may be employed in that room.

Notice of number of persons employed to be posted in each workroom.

11. (1) Effective provision shall be made for securing and maintaining a reasonable temperature in each workroom, but no method shall be employed which results in the escape into the air of any workroom of any fume of such a character and to such extent as to be likely to be injurious or offensive to persons employed therein.

Temperatures.

(2) The Executive Committee may, by regulations, for factories or for any class or description of factory or parts thereof, prescribe a standard of reasonable temperature (which may vary the standard prescribed by the last foregoing sub-section for sedentary work) and prohibit the use of any methods of maintaining a reasonable temperature which, in the opinion of the Committee, are likely to be injurious to the persons employed, and direct that thermometers shall be provided and maintained in such places and positions as may be specified.

12. (1) Effective and suitable provision shall be made for securing and maintaining by the circulation of fresh air in each workroom the adequate ventilation of the room, and for rendering harmless, so far as practicable, all fumes, dust and other impurities injurious to health that may be generated in the course of any process or work carried on in the factory.

Ventilation.

(2) The Executive Committee may, by regulations, prescribe a standard of adequate ventilation for factories or for any class or description of factory or parts thereof.

13. (1) Effective provision shall be made for securing and maintaining sufficient and suitable lighting, whether natural or artificial, in every part of a factory in which persons are working or passing.

Lighting.

(2) The Executive Committee may, by regulations, prescribe a standard of sufficient and suitable lighting for factories or for any class or description of factory or parts thereof, or for any process.

(3) Nothing in the foregoing provisions of this section or in any regulations made thereunder shall be construed as enabling directions to be prescribed or otherwise given as to whether any artificial lighting is to be produced by any particular illuminant.

(4) All glazed windows and skylights used for the lighting of workrooms shall, so far as practicable, be kept clean on both the inner and outer surfaces and free from obstruction:

Provided that this sub-section shall not affect the white-washing or shading of windows and skylights for the purpose of mitigating heat or glare.

14. Where any process is carried on which renders the floor liable to be wet to such an extent that the wet is capable of being removed by drainage, effective means shall be provided and maintained for draining off the wet.

Drainage of floors.

15. (1) Sufficient and suitable sanitary conveniences for the persons employed in the factory shall be provided, maintained and kept clean, and effective provision shall be made for lighting the conveniences and, where persons of both sexes are or are intended to be employed such conveniences shall afford proper separate, accommodation for persons of each sex.

Sanitary conveniences.

(2) The Executive Committee may make regulations determining for factories or for any class or description of factory what is sufficient and suitable provision for the purposes of this section.

Power to
require
medical
supervision.

16. (1) Where it appears to the Registrar that in any factory or class or description of factory—

- (a) cases of illness have occurred which he has reason to believe may be due to the nature of a process or other conditions of work ; or
- (b) by reason of changes in any process or in the substances used in any process, or by reason of the introduction of any new process or new substance for use in a process, there may be risk of injury to the health of persons employed in that process ; or
- (c) young persons are or are about to be employed in work which may cause risk of injury to their health,

he may issue directions requiring such reasonable arrangements to be made for the medical supervision (not including medical treatment other than first-aid treatment and medical treatment of a preventive character) of the persons, or any class of the persons, employed at that factory or class or description of factory as may be specified in the directions.

(2) If the occupier of any factory is aggrieved by any direction issued by the Registrar under sub-section (1) in respect of that factory, he may prefer an appeal within twenty-one days of the direction, to the Board of Appeal, and the direction shall be deemed to be suspended pending the final determination of the appeal.

(3) The Executive Committee may make regulations as to the arrangements that shall be made in all factories or in any specified class of factories for the purposes of this section.

PART III.

SAFETY (GENERAL PROVISIONS).

Prime
movers.

17. (1) Every flywheel directly connected to any prime mover and every moving part of any prime mover, except such prime movers as are mentioned in sub-section (3) of this section, shall be securely fenced whether the flywheel or prime mover is situated in an engine-house or not.

(2) The head and tail race of every water wheel and of every water turbine shall be securely fenced.

(3) Every part of electric generators, motors and rotary converters, and every flywheel directly connected thereto, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

Transmission
machinery.

18. (1) Every part of the transmission machinery shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.

(2) Efficient devices or appliances shall be provided and maintained in every room or place where work is carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

(3) No driving-belt when not in use shall be allowed to rest or ride upon a revolving shaft which forms part of the transmission machinery.

(4) Suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and any such gear or appliances shall be so constructed, placed and maintained as to prevent the driving belt from creeping back on to the fast pulley.

(5) Where the Registrar is satisfied that owing to special circumstances the fulfilment of any of the requirements of the last three foregoing sub-sections is unnecessary or impracticable, he may by order direct that that requirement shall not apply in those circumstances.

Other
machinery.

19. (1) Every dangerous part of any machinery, other than prime movers and transmission machinery, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced :

Provided that, in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of this sub-section shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with that part.

(2) Where the Executive Committee is satisfied that there is available and suitable for use in connection with machinery of any class any type or description of safety device which—

- (a) prevents the exposure of a dangerous part of machinery whilst in motion ; or
- (b) stops a machine forthwith in case of danger,

the Committee may make regulations directing that the type or description of device shall be provided for use in connection with such class of machinery as may be specified in the regulations :

Provided that, in any proceedings in respect of a contravention of this sub-section, it shall be a sufficient defence to prove that a device at least equally effective was being used in connection with the machinery in respect of which the contravention occurred.

(3) Any part of a stock-bar which projects beyond the head-stock of a lathe shall be securely fenced unless it is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced.

The Executive Committee may, as respects any machine or any process in which a machine is used, make regulations requiring the fencing of materials or articles which are dangerous while in motion in the machine.

20. In determining, for the purposes of the foregoing provisions of this Part, whether any part of machinery is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced—

Provisions as to unfenced machinery.

- (a) no account shall be taken of any person carrying out, while the part of machinery is in motion, an examination thereof or any lubrication or adjustment shown by such examination to be immediately necessary, being an examination, lubrication or adjustment which it is necessary to carry out while the part of machinery is in motion ; and
- (b) in the case of any part of transmission machinery used in any such process as may be specified in regulations made by the Executive Committee being a process where owing to the continuous nature thereof the stopping of that part would seriously interfere with the carrying on of the process, no account shall be taken of any person carrying out, by such methods and in such circumstances as may be specified in the regulations, any lubrication or any mounting or shipping of belts :

Provided that this section shall only apply where the examination, lubrication or other operation is carried out by such persons, being male persons who have attained the age of eighteen, as may be specified in regulations made by the Executive Committee, and all such other conditions as may be so specified are complied with.

21. All fencing or other safeguards provided in pursuance of the foregoing provisions of this Part shall be of substantial construction, and constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use, except when any such parts are necessarily exposed for examination and for any lubrication or adjustment shown by such examination to be immediately necessary, and all such conditions as may be specified in regulations made by the Executive Committee are complied with.

Construction and maintenance of fencing.

22. (1) In the case of any machine in a factory being a machine intended to be driven by mechanical power—

Construction and sale of new machinery.

- (a) every set-screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger ; and
- (b) all spur and other toothed or friction gearing, which does not require frequent adjustment while in motion, shall be completely encased unless it is so situated as to be as safe as it would be if completely encased.

(2) Any person who sells or lets on hire, or as agent of the seller or hirer causes or procures to be sold or let on hire, for use in a factory in Ceylon any machine intended to be driven by mechanical power which does not comply with the requirements of this section, shall be guilty of an offence and liable to a fine not exceeding one thousand rupees.

(3) The Executive Committee may by regulations extend the provisions of the last preceding sub-section to machinery or plant which does not comply with such requirements of this Ordinance or of any regulation made thereunder as may

be specified in the regulations, and any regulations made under this sub-section may relate to machinery or plant in a specified process.

(4) Nothing in this section shall apply to any machine constructed before the appointed date, and regulations under this section shall not apply to any machinery or plant constructed before the making of the regulations.

Vessels
containing
dangerous
liquids.

23. (1) Every fixed vessel, structure, sump or pit of which the edge is less than three feet above the adjoining ground or platform shall, if it contains any scalding, corrosive or poisonous liquid, either be securely covered or be securely fenced to at least that height, or where by reason of the nature of the work neither secure covering nor secure fencing to that height is practicable, all practicable steps shall be taken by covering, fencing or other means to prevent any person from falling into the vessel, structure, sump or pit.

(2) The Registrar may by order exempt from the requirements of this section any class of vessel, structure, sump or pit in the case of which he is satisfied that the requirements are unnecessary or inappropriate.

Self-acting
machines.

24. (1) In any factory or part of a factory to which this sub-section applies no traversing part of any self-acting machine and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed on its outward or inward traverse to run within a distance of eighteen inches from any fixed structure not being part of the machine :

Provided that nothing in this sub-section shall prevent any portion of the traversing carriage of any self-acting spinning mule being allowed to run to a point twelve inches distant from any part of the head stock of another such machine.

(2) The provisions of sub-section (1) shall apply—

(a) to any factory or part of a factory reconstructed after the appointed date ; and

(b) to any extension of or addition to a factory made after the appointed date.

(3) All practicable steps shall be taken by instructions to the person in charge of the machine and otherwise to ensure that no person employed shall be in the space between any traversing part of a self-acting spinning mule and any fixed part of the machine towards which the traversing part moves on the inward run, except when the machine is stopped with the traversing part on the outward run.

(4) The Registrar may exempt from the operation of this section any factory or class of factories in which precautions have been taken or safeguards adopted in accordance with the recommendations of the Chief Inspector.

Cleaning of
machinery by
women and
young
persons.

25. A woman or young person shall not be required or permitted to clean any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, and shall not clean any part of any machine if the cleaning thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

Training and
supervision
of young
persons
working at
dangerous
machines.

26. (1) No young person shall be required or permitted to work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and—

(a) has received a sufficient training in work at the machine,
or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) This section applies to such machines as may be declared by order of the Registrar to be machines which in his opinion are of such a dangerous character that young persons ought not to work at them unless the foregoing requirements are complied with.

Hoists
and lifts.

27. (1) Every hoist or lift shall be of good mechanical construction, sound material and adequate strength, and be properly maintained.

(2) Every hoist or lift shall be thoroughly examined by a competent person at least once in every period of twelve months, and a report of the result of every such examination in such form and containing such particulars as may be prescribed shall be signed by the person making the examination and shall within fourteen days be entered in or attached to the general register.

(3) Every hoistway or liftway shall be efficiently protected by a substantial enclosure fitted with gates, being such an enclosure as to prevent, when the gates are shut, any person falling down the way or coming into contact with any moving part of the hoist or lift.

(4) Any such gate as aforesaid shall be fitted with efficient interlocking or other devices to secure that the gate cannot be opened except when the cage or platform is at the landing and that the cage or platform cannot be moved away from the landing until the gate is closed :

Provided that, in the case of a hoist or lift constructed or reconstructed before the appointed date which it is not reasonably practicable to fit with such devices as aforesaid, it shall be sufficient if the gate is provided with such arrangements as will secure the aforesaid objects so far as is reasonably practicable, and in any event is kept closed and fastened except when the cage or platform is at rest at the landing.

(5) Every hoist or lift and every such enclosure as aforesaid shall be so constructed as to prevent any part of any person or any goods carried in the hoist or lift being trapped between any part of the hoist or lift and any fixed structure or between the counterbalance weight and any other moving part of the hoist or lift.

(6) There shall be marked conspicuously on every hoist or lift the maximum working load which it can safely carry and no load greater than that load shall be required or permitted to be carried on any hoist or lift.

(7) The following additional requirements shall apply to hoists and lifts used for carrying persons, whether together with goods or otherwise :—

(a) efficient automatic devices shall be provided and maintained to prevent the cage or platform over-running ;

(b) every cage shall on each side from which access is afforded to a landing, be fitted with a gate, and in connection with every such gate efficient devices shall be provided to secure that, when persons or goods are in the cage, the cage cannot be raised or lowered unless the gate is closed, and will come to rest when the gate is opened : provided that, in the case of a hoist or lift constructed or reconstructed before the appointed date in connection with which it is not reasonably practicable to provide such devices as aforesaid, it shall be sufficient if such arrangements are provided as will secure the aforesaid objects so far as is reasonably practicable, and in any event the gate is kept closed and fastened except when the cage is at rest or empty ; and

(c) in the case of a hoist or lift constructed or reconstructed after the appointed date, where the platform or cage is suspended by rope or chain, there shall be at least two ropes or chains separately connected with the platform or cage, each rope or chain and its attachments being capable of carrying the whole weight of the platform or cage and its maximum working load, and efficient devices shall be provided and maintained which will support the platform or cage with its maximum working load in the event of a breakage of the ropes or chains or any of their attachments.

(8) In the case of a continuous hoist or lift, sub-sections (3) to (7) inclusive of this section shall not apply and in the case of a hoist or lift not connected with mechanical power sub-sections (4) and (7) shall not apply.

(9) For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage the direction of movement of which is restricted by a guide or guides.

(10) Every teagle opening or similar doorway used for hoisting or lowering goods or materials, whether by mechanical power or otherwise, shall be securely fenced, and shall be provided with a secure hand-hold on each side of the opening or doorway. The fencing shall be properly maintained and shall, except when the hoisting or lowering of goods or materials is being carried on at the opening or doorway, be kept in position.

(11) If it is shown to the satisfaction of the Registrar that it would be unreasonable in the special circumstances of the case to enforce any requirement of this section in respect of any class or description of hoist, lift, hoistway, liftway, or teagle opening or similar doorway, he may by order direct that such requirement shall not apply as respects that class or description.

Chains, ropes
and lifting
tackle.

28. (1) The following provisions shall be complied with as respects every chain, rope or lifting tackle used for the purpose of raising or lowering persons, goods or materials :—

- (a) no chain, rope or lifting tackle shall be used unless it is of good construction, sound material, adequate strength and free from patent defect ;
- (b) a table showing the safe working loads of every kind and size of chain, rope or lifting tackle in use, and, in the case of a multiple sling, the safe working load at different angles of the legs, shall be posted in the store in which the chains, ropes or lifting tackle are kept, and in prominent positions on the premises, and no chain, rope or lifting tackle not shown in the table shall be used, so, however, that the foregoing provisions of this paragraph shall not apply in relation to any lifting tackle if the safe working load thereof or in the case of a multiple sling, the safe working load at different angles of the legs is plainly marked upon it ;
- (c) no chain, rope or lifting tackle shall be used for any load exceeding the safe working load thereof as shown by the table aforesaid or marked upon it as aforesaid ;
- (d) all chains, ropes and lifting tackle in use shall be thoroughly examined by a competent person at least once in every period of six months or at such greater intervals as the Registrar may by order prescribe ;
- (e) no chain, rope or lifting tackle, except a fibre rope or fibre rope sling, shall be taken into use in any factory for the first time in that factory unless it has been tested and thoroughly examined by a competent person and a certificate of such a test and examination specifying the safe working load and signed by the person making the test and examination has been obtained and is kept available for inspection ;
- (f) every chain and lifting tackle except a rope sling shall, unless of a class or description exempted by certificate of the chief inspector upon the ground that it is made of such material or so constructed that it cannot be subjected to heat treatment without risk of damage or that it has been subjected to some form of heat treatment (other than annealing) approved by him, be annealed at least once in every fourteen months, or, in the case of chains or slings of half-inch bar or smaller, or chains used in connection with molten metal or molten slag, in every six months, so, however, that chains and lifting tackle not in regular use need be annealed only when necessary ;
- (g) a register containing such particulars as may be prescribed shall be kept with respect to all such chains, ropes or lifting tackle, except fibre rope slings.

(2) In this section the expression " lifting tackle " means chain slings, rope slings, rings, hooks, shackles, and swivels.

(3) If it is shown to the satisfaction of the Registrar that it would be unreasonable in the special circumstances of the case to enforce all or any of the provisions of sub-section (1) in respect of any class or description of chains, ropes and lifting tackle, he may by order direct that such provisions shall not apply as respects that class or description.

Cranes and
other lifting
machines.

29. (1) All parts and working gear whether fixed or movable, including the anchoring and fixing appliances, of every lifting machine shall be of good construction, sound material, adequate strength and free from patent defect, and shall be properly maintained.

(2) All such parts and gear as aforesaid shall be thoroughly examined by a competent person at least once in every period of fourteen months and a register shall be kept containing such particulars of every examination as may be prescribed.

(3) All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves shall be of proper size and adequate strength and have an even running surface ; and any such rails or track shall be properly laid, adequately supported or suspended, and properly maintained.

(4) There shall be plainly marked on every lifting machine the safe working load or loads thereof, except that in the case of a jib crane so constructed that the safe working load may be varied by the raising or lowering of the jib, there shall be attached thereto either an automatic indicator of safe working loads or a table indicating the safe working loads at corresponding inclinations of the jib or corresponding radii of the load.

(5) No lifting machine shall, except for the purpose of a test, be loaded beyond the safe working load as marked or indicated under the last foregoing sub-section.

(6) No lifting machine shall be taken into use in any factory for the first time in that factory unless it has been tested and all such parts and working gear of the machine as are specified in sub-section (1) of this section have been thoroughly examined by a competent person and a certificate of such a test and examination specifying the safe working load or loads of the machine and signed by the person making the test and examination has been obtained and is kept available for inspection.

(7) If any person is employed or working on or near the wheel-track of an overhead travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken by warning the driver of the crane or otherwise to ensure that the crane does not approach within twenty feet of that place.

(8) In this section the expression "lifting machine" means a crane, crab, winch, teagle, pulley block, gin wheel, transporter or runway.

30. (1) All floors, steps, stairs, passages and gangways shall be of sound construction and properly maintained.

(2) For every staircase in a building or affording a means of exit from a building, a substantial hand-rail shall be provided and maintained, which, if the staircase has an open side shall be on that side, and, in the case of a staircase having two open sides, or in the case of a staircase which, owing to the nature of the construction thereof or the condition of the surface of the steps or other special circumstances, is specially liable to cause accidents, such a hand-rail shall be provided and maintained on both sides. Any open side of a staircase shall also be guarded by the provision and maintenance of a lower rail or other effective means.

(3) All openings in floors shall be securely fenced, except in so far as the nature of the work renders such fencing impracticable.

(4) All ladders shall be soundly constructed and properly maintained.

31. (1) There shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person has at any time to work.

(2) Where any person is to work at a place from which he will be liable to fall a distance more than ten feet, then, unless the place is one which affords secure foothold and, where necessary, secure hand-hold, means shall be provided, so far as is reasonably practicable, by fencing or otherwise for ensuring his safety.

32. (1) Where work has to be done inside any chamber, tank, vat, pit, pipe, flue or similar confined space, in which dangerous fumes are liable to be present to such an extent as to involve risk of persons being overcome thereby—

(a) the confined space shall, unless there is other adequate means of egress, be provided with a manhole, which may be rectangular, oval, or circular in shape, and shall be not less than eighteen inches long and sixteen inches wide or (if circular) not less than eighteen inches in diameter, or in the case of tank wagons and other mobile plant not less than sixteen inches long and fourteen inches wide or (if circular) not less than sixteen inches in diameter; and

(b) no person shall be required or permitted to enter the confined space for any purpose unless the following requirements are complied with:—

(i) all practicable steps shall be taken to remove any fumes which may be present and to prevent any ingress of fumes and, unless it has been ascertained by a suitable test that the space is free from dangerous fumes, the person entering shall wear a belt to which there is securely attached a rope of which the free end is held by a person outside; or

(ii) the person entering shall wear a suitable breathing apparatus;

(c) suitable breathing apparatus and a suitable reviving apparatus and suitable belts and ropes shall be provided and maintained so as to be readily accessible and shall be periodically inspected in such manner as may be prescribed; and

(d) a sufficient number of the persons employed shall be trained and practised in the use of such apparatus and in the method of restoring respiration;

Construction and maintenance of floors, passages and stairs.

Safe means of access and safe place of employment.

Precautions in places where dangerous fumes are liable to be present.

Provided that the chief inspector may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the aforesaid requirements in any case where he is satisfied that compliance with those requirements is unnecessary or impracticable.

(2) No work shall be permitted in any boiler-furnace or boiler-flue until it has been sufficiently cooled by ventilation or otherwise to make work safe for the persons employed.

Precautions
with respect
to explosive or
inflammable
dust, gas,
vapour or
substance.

33. (1) Where, in connection with any grinding, sieving, or other process giving rise to dust, there may escape into any workroom dust of such a character and to such an extent as to be liable to explode on ignition, all practicable steps shall be taken to prevent such an explosion by enclosure of the plant used in the process, and by removal or prevention of accumulation of the dust, and by exclusion or effective enclosure of possible sources of ignition.

(2) Where there is present in any plant used in any such process as aforesaid dust of such a character and to such an extent as to be liable to explode on ignition, then, unless the plant is so constructed as to withstand the pressure likely to be produced by any such explosion, all practicable steps shall be taken to restrict the spread and effects of such an explosion, by the provision, in connection with the plant, of chokes, baffles and vents, or other equally effective appliances.

(3) Where any part of a plant contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened, except in accordance with the following provisions :—

(a) before the fastening of any joint of any pipe connected with the part of the plant or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or into any such pipe shall be effectively stopped by a stop-valve or otherwise ;

(b) before any such fastening as aforesaid is removed, all practicable steps shall be taken to reduce the pressure of the gas or vapour in the pipe or part of the plant to atmospheric pressure ;

and if any such fastening has been loosened or removed as aforesaid, no explosive or inflammable gas or vapour shall be allowed to enter the pipe or part of the plant until the fastening has been secured, or, as the case may be, securely replaced :

Provided that this sub-section shall not apply to plant installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected to any welding, brazing or soldering operation or to any cutting operation which involves the application of heat, until all practicable steps have been taken to remove the substance and any fumes arising therefrom, or to render them non-explosive or non-inflammable ; and if any plant, tank, or vessel has been subjected to any such an operation as aforesaid, no explosive or inflammable substance shall be allowed to enter the plant, tank or vessel until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The chief inspector may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of the last two foregoing sub-sections in any case where he is satisfied that compliance with the requirement is unnecessary or impracticable.

— Steam
boilers.

34. (1) Every steam boiler, whether separate or one of a range—

(a) shall have attached to it—

(i) a suitable safety valve, separate from any stop-valve, which shall be so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure and shall be fixed directly to, or as close as practicable to, the boiler ;

(ii) a suitable stop-valve connecting the boiler to the steam pipe ;

(iii) a correct steam pressure gauge connected to the steam space and easily visible by the boiler attendant, which shall indicate the pressure of steam in the boiler in pounds per square inch, and have marked upon it in a distinctive colour the maximum permissible working pressure ;

(iv) at least one water gauge of transparent material or other type approved by the chief inspector to show the water level in the boiler, and, if the gauge is of the glass tubular type and the working pressure in the boiler normally

exceeds forty pounds per square inch, the gauge shall be provided with an efficient guard but not so as to obstruct the reading of the gauge ;

(v) where it is one of two or more boilers, a plate bearing a distinctive number which shall be easily visible ; and

(b) shall be provided with means for attaching a test pressure gauge ; and

(c) unless externally fired, shall be provided with a suitable fusible plug or an efficient low water alarm device :

Provided that sub-paragraph (ii) of paragraph (a) of this sub-section shall not apply with respect to economisers, and sub-paragraphs (iii), (iv), and (v) of paragraph (a), and paragraphs (b) and (c) of this sub-section shall not apply with respect to either economisers or superheaters.

(2) For the purposes of the last foregoing sub-section, a lever-valve shall not be deemed a suitable safety valve unless the weight is secured on the lever in the correct position.

(3) No person shall enter or be in any steam boiler which is one of a range of two or more steam boilers unless—

(a) all inlets through which steam or hot water might otherwise enter the boiler from any other part of the range are disconnected from that part ; or

(b) all valves or taps controlling such entry are closed and securely locked, and, where the boiler has a blow-off pipe in common with one or more other boilers or delivering into a common blow-off vessel or sump, the blow-off valve or tap on each such boiler is so constructed that it can only be opened by a key which cannot be removed until the valve or tap is closed and is the only key in use for that set of blow-off valves or taps.

(4) Every part of every steam boiler shall be of good construction, sound material, adequate strength, and free from patent defect.

(5) Every steam boiler and all its fittings and attachments shall be properly maintained.

(6) Every steam boiler and all its fittings and attachments shall be thoroughly examined by a person authorised by the Registrar at least once in every period of fourteen months, and also after any extensive repairs :

Provided that, in the case of any range of boilers used at the appointed date for the purposes of a process requiring a continuous supply of steam, any stop valve on the range which cannot be isolated from steam under pressure need only be examined so far as is practicable without such isolation, but this proviso shall cease to have effect as soon as a reasonable opportunity arises for installing devices to enable the valve to be so isolated and, in any case, at the expiration of a period of three years from the appointed date.

(7) Any examination in accordance with the requirements of the last foregoing sub-section shall consist, in the first place, of an examination of the boiler when it is cold and the interior and exterior have been prepared in the prescribed manner, and secondly, except in the case of an economiser or superheater, of an examination when it is under normal steam pressure, and the two parts of the examination may be carried out by different persons ; the examination under steam pressure shall be made on the first occasion when steam is raised after the examination of the boiler when cold, or as soon as possible thereafter, and the person making the examination shall see that the safety valve is so adjusted as to prevent the boiler being worked at a pressure greater than the maximum permissible working pressure.

(8) A report of the result of every such examination in such form and containing such particulars as may be prescribed (including the maximum permissible working pressure) shall, as soon as practicable and in any case within twenty-eight days of the completion of the examination, be entered in or attached to the general register, and the report shall be signed by the person making the examination, and if that person is an inspector of a boiler-inspecting company or association, countersigned by the chief engineer of the company or association or by such other responsible officer of the company or association as may be authorised in writing in that behalf by the chief engineer.

For the purposes of this sub-section and the succeeding provisions of this section relating to reports of examinations, the examination of a boiler when it is cold and its examination when it is under steam pressure shall be treated as separate examinations.

(9) (a) No steam boiler shall be taken into use for the first time in any factory unless—

- (i) there has been obtained from the manufacturer of the boiler or from a boiler-inspecting company or association, a certificate specifying the maximum permissible working pressure of the boiler and stating the nature of the tests to which the boiler and fittings have been submitted; and
- (ii) the certificate is kept available for inspection on the premises of the factory; and
- (iii) the boiler is so marked as to enable it to be identified as the boiler to which the certificate relates.

(b) No steam boiler which has previously been used in any other place shall be taken into use in any factory for the first time in that factory until the boiler has been examined and reported on in accordance with the last three foregoing sub-sections, and unless such examination has been carried out after the installation of the boiler in the factory and the certificate referred to in paragraph (a) has been made available for inspection to the examiner at the time of the examination.

(10) Where the report of any examination under this section specifies conditions for securing the safe working of a steam boiler, the boiler shall not be used except in accordance with those conditions.

(11) The person making the report of any examination under this section, or, where that person is an inspector of a boiler-inspecting company or association, the chief engineer thereof, shall within twenty-eight days of the completion of the examination send to the inspector for the district a copy of the report in every case where the maximum permissible working pressure is reduced, or the examination shows that the boiler cannot continue to be used with safety unless certain repairs are carried out immediately or within a specified time.

(12) If the person employed to make any such examination fails to make a thorough examination as required by this section or makes a report which is false or deficient in any material particular, or if the chief engineer of any boiler-inspecting company or association permits any such report to be made, he shall be guilty of an offence and liable to a fine not exceeding five hundred rupees, and if any such person or chief engineer fails to send to the inspector for the district a copy of any report as required by the preceding sub-section, he shall be guilty of an offence.

(13) If the chief inspector is not satisfied as to the thoroughness of the examination, he may require the boiler to be re-examined by a person nominated by him, and the occupier shall give the necessary facilities for such re-examination. If as a result of such re-examination it appears that the report of the examination was inadequate or inaccurate in any material particular, the cost of the re-examination shall be recoverable from the occupier as a debt due to the Crown and the report of the re-examination purporting to be signed by the person making it shall be admissible in evidence of the facts stated therein.

(14) In this Part, the expression "maximum permissible working pressure" means, in the case of a new steam boiler, that specified in the certificate referred to in sub-section (9) of this section and in the case of a steam boiler which has been examined in accordance with the provisions of this section, that specified in the report of the last examination; and the expression "steam boiler" means any closed vessel in which for any purpose steam is generated under pressure greater than atmospheric pressure, and includes any economiser used to heat the water fed to any such vessel, and any superheater used for heating steam.

(15) This section shall not apply to any boiler belonging to or exclusively used in the service of His Majesty, which is exempted therefrom by the Governor on the ground that an efficient staff is employed for keeping such boilers in sound condition.

Steam receivers
and steam
containers.

35. (1) Every steam receiver, not so constructed and maintained as to withstand with safety the maximum permissible working pressure of the boiler or the maximum pressure which can be obtained in the pipe connecting the receiver with any other source of supply, shall be fitted with—

- (a) a suitable reducing valve or other suitable automatic appliance to prevent the safe working pressure being exceeded; and

- (b) a suitable safety valve so adjusted as to permit the steam to escape as soon as the safe working pressure is exceeded, or a suitable appliance for cutting off automatically the supply of steam as soon as the safe working pressure is exceeded; and
- (c) a correct steam pressure gauge, which must indicate the pressure of steam in the receiver in pounds per square inch; and
- (d) a suitable stop valve; and
- (e) except where only one steam receiver is in use, a plate bearing a distinctive number which shall be easily visible.

The safety valve and pressure gauge shall be fitted either on the steam receiver or on the supply pipe between the receiver and the reducing valve or other appliance to prevent the safe working pressure being exceeded.

(2) For the purpose of the provisions of the foregoing sub-section, except paragraph (e), any set of receivers supplied with steam through a single pipe and forming part of a single machine may be treated as one receiver, and for the purpose of the said provisions, except paragraphs (d) and (e), any other set of receivers supplied with steam through a single pipe may be treated as one receiver:

Provided that this sub-section shall not apply to any such set of receivers unless the reducing valve or other appliance to prevent the safe working pressure being exceeded is fitted on the said single pipe.

(3) Every part of every steam receiver shall be of good construction, sound material, adequate strength, and free from patent defect.

(4) Every steam receiver and its fittings shall be properly maintained, and shall be thoroughly examined by a person authorised by the Registrar, so far as the construction of the receiver permits, at least once in every period of twenty-six months.

(5) A report of the result of every such examination containing such particulars as may be prescribed (including particulars of the safe working pressure) shall be entered in or attached to the general register.

(6) Every steam container shall be so maintained as to secure that the outlet is at all times kept open and free from obstruction.

(7) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“safe working pressure” means, in the case of a new steam receiver, that specified by the maker, and in the case of a steam receiver which has been examined in accordance with the provisions of this section, that specified in the report of the last examination;

“steam receiver” means any vessel or apparatus (other than a steam boiler, steam container, a steam pipe or coil, or a part of a prime mover) used for containing steam under pressure greater than atmospheric pressure;

“steam container” means any vessel (other than a steam pipe or coil) constructed with a permanent outlet into the atmosphere or into a space where the pressure does not exceed atmospheric pressure, and through which steam is passed at atmospheric pressure or at approximately that pressure for the purpose of heating, boiling, drying, evaporating or other similar purpose.

36. (1) Every air receiver shall—

Air receivers.

- (a) have marked upon it so as to be plainly visible the safe working pressure; and
- (b) in the case of a receiver connected with an air compressing plant either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded; and
- (c) be fitted with a suitable safety valve so adjusted as to permit the air to escape as soon as the safe working pressure is exceeded; and
- (d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch; and
- (e) be fitted with a suitable appliance for draining the receiver; and

- (f) be provided with a suitable manhole, handhole, or other means which will allow the interior to be thoroughly cleaned ; and
- (g) in a case where more than one receiver is in use in the factory, bear a distinguishing mark which shall be easily visible.

(2) For the purpose of the provisions of the foregoing sub-section relating to safety valves and pressure gauges, any set of air receivers supplied with air through a single pipe may be treated as one receiver :

Provided that, in a case where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this sub-section shall not apply unless the valve or appliance is fitted on the said single pipe.

(3) Every air receiver and its fittings shall be of sound construction and properly maintained.

(4) Every air receiver shall be thoroughly cleaned and examined at least once in every period of twenty-six months :

Provided that in the case of a receiver of solid drawn construction—

- (a) the person making any such examination may specify in writing a period exceeding twenty-six months but not exceeding four years within which the next examination is to be made ; and
- (b) if it is so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination.

Every such examination and test shall be carried out by a person authorised by the Registrar, and a report of the result of every such examination and test, containing such particulars as may be prescribed (including particulars of the safe working pressure) shall be entered in or attached to the general register.

(5) In this section the expression " air receiver " means—

- (a) any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air and connected with an air compressing plant ;
- (b) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine ; or
- (c) any fixed or portable vessel (not being part of a spraying pistol) used for the purpose of spraying by means of compressed air any paint, varnish, lacquer or similar material ; or
- (d) any vessel in which oil is stored and from which it is forced by compressed air :

Provided that the provisions of paragraph (e) of sub-section (1) of this section shall not apply to any such vessel as is mentioned in paragraph (c) or paragraph (d) of this sub-section.

Exceptions
as to steam
boilers, steam
receivers and
containers, and
air receivers.

37. The chief inspector may by certificate except from any of the provisions of the last three preceding sections any class or type of steam boiler, steam receiver, steam container or air receiver to which he is satisfied that such provision cannot reasonably be applied. Any such exception may be unqualified or may be subject to such conditions as may be contained in the certificate.

Precautions
as respects
water-sealed
gasholders.

38. (1) Every gasholder shall be of sound construction and shall be properly maintained.

(2) Every gasholder shall be thoroughly examined externally by a person authorised by the Registrar at least once in every period of two years, and a record containing such particulars as may be prescribed of every such examination shall be entered in or attached to the general register.

(3) In the case of a gasholder of which any lift has been in use for more than twenty years, the internal state of the sheeting shall, within two years of the coming into operation of this section and thereafter at least once in every period of ten years, be examined by a person authorised by the Registrar by cutting samples from the crown and sides of the holder or by other sufficient means, and all samples so cut and a report on every such examination signed by the person making it shall be kept available for inspection.

(4) A record signed by the occupier of the factory or by a responsible official authorised in that behalf showing the date of the construction, as nearly as it can be ascertained, of the oldest lift of every gasholder in the factory shall be kept available for inspection.

(5) Where there is more than one gasholder in the factory, every gasholder shall be marked in a conspicuous position with a distinguishing number or letter.

(6) No gasholder shall be repaired or demolished except under the direct supervision of a person who, by his training and experience and his knowledge of the necessary precautions against risks of explosion and of persons being overcome by gas, is competent to supervise such work.

(7) In this section the expression "gasholder" means a water-sealed gasholder which has a storage capacity of not less than five thousand cubic feet.

39. (1) Every factory to which this section applies shall be certified by an inspector as being provided with such means of escape in case of fire for the persons employed therein as may reasonably be required in the circumstances of each case and, if any premises with respect to which no such certificate is in force are used as a factory, the occupier shall be guilty of an offence and liable on conviction thereof to a fine not exceeding five hundred rupees, and if the contravention in respect of which he was so convicted is continued after the conviction, he shall (subject to the provisions of section 108) be guilty of a further offence and liable in respect thereof to a fine not exceeding fifty rupees for each day on which the offence was so continued.

Means of escape
in case of fire.

It shall be the duty of the inspector for every district to examine every such factory within the district and, on being satisfied that the factory is so provided as aforesaid, to give such a certificate accordingly. The certificate shall specify precisely and in detail the means of escape provided, and shall contain particulars as to the maximum number of persons employed or proposed to be employed in the factory as a whole and, if the inspector thinks fit, in any specified part thereof, and as to any explosive or highly inflammable material stored or used and as to other matters taken into account in granting the certificate. The certificate shall be attached by the occupier to the general register.

(2) All means of escape specified in the certificate as aforesaid shall be properly maintained and kept free from obstruction.

(3) In the case of any factory constructed or converted for use as a factory before the coming into operation of this section no offence shall be deemed to be committed under this section by reason of the use of the factory during any period that may elapse between the coming into operation of this section and the grant or refusal of a certificate by the inspector after examining the factory under this section, and if the inspector refuses to grant a certificate in respect of the factory unless alterations are made, no such offence shall be deemed to be committed while the alterations are being carried out in accordance with the requirements of the inspector.

(4) If, after the grant of a certificate, it is proposed to make any material extension or material structural alteration of the factory premises or to increase materially the number of persons employed in the factory or in any part specified in the certificate, or to begin to store or use explosive or highly inflammable material in the factory or materially to increase the extent of such storage or use, the occupier shall give written notice of the proposal to the inspector.

(5) If the inspector on receipt of the notice mentioned in the last foregoing sub-section is of opinion that the conditions in regard to escape in case of fire will be affected, or if at any time he is satisfied that by reason of changed conditions the existing means of escape have become insufficient, he may by notice in writing require the occupier to make such alterations, within such period, as may be specified in the notice.

(6) The occupier shall, within the period specified in any notice of the inspector under this section, carry out any alterations required by the notice, and upon their being carried out the inspector shall amend the certificate or issue a new certificate, and if the alterations are not so carried out, the inspector shall, without prejudice to the taking of other proceedings, cancel the certificate.

(7) If the occupier of any factory is aggrieved by the refusal of the inspector to grant a certificate under this section or by being required by the inspector under this section to carry out any alterations at the factory or by the cancellation of a certificate, he may prefer an appeal within twenty-one days of the refusal, notice of requirement, or cancellation, to the Board of Appeal and, pending the final determination of the appeal, no offence shall be deemed to be committed under this section by reason that the premises to which the appeal relates are used as a factory without a certificate being in force with respect thereto; and the decision of the Board shall be binding on the occupier and the inspector.

(8) If it appears to an inspector that the conditions in regard to escape in case of fire in any factory to which this section applies are so dangerous that the factory or any part thereof ought not to be used, or ought not to be used for a particular process or work, until steps have been taken to remedy the danger, he may make a complaint to a Magistrate's court and the court may, on being satisfied of the matters aforesaid by order prohibit the use of the factory or part thereof, or its use for the particular process or work until such works have been executed as are in the opinion of the court necessary to remedy the danger.

When any works have been executed in pursuance of such an order as aforesaid, the inspector shall amend any certificate in force under this section in respect of the factory, or issue a new certificate, as the case may require.

(9) This section applies to every factory—

- (a) in which more than twenty persons are employed ; or
- (b) which is being constructed or converted for use as a factory at the appointed date, or is constructed or so converted after that date, and in which more than ten persons are employed in the same building on any floor above the ground floor of the building ; or
- (c) of which the construction has been completed before the appointed date and in which more than ten persons are employed in the same building above the first floor of the building or more than twenty feet above the ground level ; or
- (d) in or under which explosive or highly inflammable materials are stored or used.

Regulations as to means of escape in case of fire.

40. (1) The Executive Committee may make regulations as to the means of escape in case of fire to be provided in factories or any class or description of factory.

(2) If a certificate has been issued under the last foregoing section in respect of a factory which is not in conformity with the regulations under this section, the inspector shall serve a notice on the occupier of the factory requiring him to make, within a specified period, such alterations as the inspector may consider necessary to bring the factory into conformity with the regulations, and the provisions of the last foregoing section shall apply in relation to any such notice as they apply to a notice of the inspector under that section.

Safety provisions in case of fire.

41. (1) While any person is within a factory for the purpose of employment or meals, the doors of the factory, and of any room therein in which the person is, and any doors which afford a means of exit for persons employed in the factory from any building or from any enclosure in which the factory is situated, shall not be locked or fastened in such manner that they cannot be easily and immediately opened from the inside.

2) Any doors opening on to any staircase or corridor from any room in which more than ten persons are employed, and in the case of any factory constructed or converted for use as a factory after the coming into operation of this section, all other doors affording a means of exit from the factory for persons employed therein, shall except in the case of sliding doors, be constructed to open outwards.

(3) In any factory constructed or converted for use as a factory before the coming into operation of this section, in which more than ten persons are employed in the same building above the ground floor, any door, which is not kept continuously open, at the foot of a staircase affording a means of exit from the building shall, except in the case of sliding doors, be constructed to open outwards.

(4) Every hoistway or liftway inside a building constructed after the coming into operation of this section shall, subject as hereinafter provided, be completely enclosed with fire-resisting materials, and all means of access to the hoist or lift shall be fitted with doors of fire-resisting materials :

Provided that any such hoistway or liftway shall be enclosed at the top only by some material easily broken by fire, or be provided with a vent at the top.

(5) The chief inspector may by certificate grant, subject to any conditions specified in the certificate, exemption from compliance with any of the requirements of the last foregoing sub-section in any case where he is satisfied that compliance with those requirements is inappropriate or undesirable.

(6) Every window, door, or other exit affording means of escape in case of fire or giving access thereto other than the means of exit in ordinary use, shall be distinctively and conspicuously marked by a notice printed in red letters of an adequate size.

(7) Where in any factory more than twenty persons are employed in the same building, or explosive or highly inflammable materials are stored or used in any building in

which persons are employed, effective provision shall be made for giving warning in case of fire, which shall be clearly audible throughout the building.

(8) The contents of any room in which persons are employed shall be so arranged or disposed that there is a free passage-way for all persons employed in the room to a means of escape in case of fire.

42. (1) Where in any factory more than twenty persons are employed in the same building above the first floor or more than twenty feet above the ground level, or explosive or highly inflammable materials are stored or used in any building where persons are employed, effective steps shall be taken to ensure that all the persons employed are familiar with the means of escape in case of fire and their use and with the routine to be followed in case of fire.

Instruction as to use of means of escape in case of fire.

(2) The Executive Committee may make regulations as to the steps to be taken for the said purposes in such factories as aforesaid, or any class or description thereof.

43. (1) Where it appears to the Registrar that, in view of the number and nature of accidents occurring in any factory or class or description of factory, special provision ought to be made at that factory or at factories of that class or description to secure the safety of persons employed therein, he may make an order requiring the occupier to make such reasonable provision by arrangements for special supervision in regard to safety, investigation of the circumstances and causes of accidents, and otherwise as may be specified in the order.

Power of Registrar to require special safety arrangements for the prevention of accidents.

(2) If the occupier of any factory is aggrieved by any order made by the Registrar under sub-section (1) in respect of that factory, he may prefer an appeal, within twenty-one days of the order, to the Board of Appeal and the order shall be deemed to be suspended pending the final determination of the appeal.

44. (1) If in respect of any factory, on complaint made by an inspector, and after giving the occupier an opportunity of meeting such complaint, the Registrar is satisfied either—

Power of Registrar to make orders as to dangerous conditions and practices.

- (a) that any part of the ways, works, machinery, or plant used in the factory is in such a condition or is so constructed or is so placed that it cannot be used without risk of bodily injury; or
- (b) that any process or work is carried on or anything is or has been done in the factory in such a manner as to cause risk of bodily injury;

the Registrar shall, as the case may require, by order—

- (i) prohibit the use of that part of the ways, works, machinery or plant, or, if it is capable of repair or alteration, prohibit its use until it is duly repaired or altered; or
- (ii) require the occupier to take such steps as may be specified in the order for remedying the danger complained of.

(2) Where the Registrar is satisfied, on complaint made by an inspector and after giving the occupier an opportunity for meeting such complaint, that any factory or part of a factory is in such a condition that any process or work carried on therein cannot be so carried on without risk of bodily injury, the Registrar may by order prohibit the use thereof for the purpose of that process or work until such works have been executed as are in the opinion of the Registrar necessary to remove the danger.

(3) In the event of any appeal being preferred by an occupier against any order of the description set out in sub-section (1) or sub-section (2), the order shall be deemed to be suspended pending the final determination of the appeal, and thereafter the decision in appeal shall have effect.

45. No machinery of any type or description which is not expressly referred to in this Part shall—

Regulation of the use of other machinery.

- (a) be used in a factory unless such machinery is of sound material, good mechanical construction and adequate strength, is fitted with such safety devices and is installed in such manner as may be prescribed by regulation for that type or description of machinery; or
- (b) be operated except in such manner and with such safeguards and precautionary measures as may be prescribed by regulation for the better protection of persons or property from injury or damage likely to be caused by such machinery.

PART IV.

WELFARE (GENERAL PROVISIONS).

Supply of drinking water.

46. (1) There shall be provided and maintained at suitable points conveniently accessible to all persons employed an adequate supply of wholesome drinking water from a public main or from some other source approved in writing by the inspector for the district such approval not to be withheld except on the ground of the unwholesomeness of the water.

(2) A supply of drinking water which is not laid on shall be contained in suitable vessels, and shall be renewed at least daily, and all practicable steps shall be taken to preserve the water and vessels from contamination; and a drinking water supply (whether laid on or not) shall, in such cases as the inspector for the district may direct, be clearly marked "Drinking Water".

(3) Except where the water is delivered in an upward jet from which the employed persons can conveniently drink, one or more suitable cups or drinking vessels shall be provided at each point of supply with facilities for rinsing them in drinking water.

Regulations as to washing facilities.

47. The Executive Committee may by regulations prescribe, either generally or as respects any class or description of factory or as respects the persons employed in any process, a standard of adequate and suitable washing facilities.

Accommodation for clothing.

48. (1) There shall be provided and maintained for the use of employed persons adequate and suitable accommodation for clothing not worn during working hours; and such arrangements as are reasonably practicable or, when a standard is prescribed, such arrangements as are laid down thereby shall be made for drying such clothing.

(2) The Executive Committee may by regulations prescribe, either generally or as respects any class or description of factory, a standard of suitable accommodation for such clothing and of arrangements for drying such clothing.

(3) The Registrar may by order provide for the exemption of factories from any of the requirements of this section in cases where by reason of such special circumstances as may be specified in the order the application of the requirement would in his opinion be unreasonable.

Facilities for resting for female workers.

49. There shall be provided and maintained, for the use of all female workers, whose work is done standing, suitable facilities for resting sufficient to enable them to take advantage of any opportunities for resting which may occur in the course of their employment.

First aid.

50. (1) There shall be provided and maintained so as to be readily accessible a first-aid box or cupboard of such standard as may be prescribed, and where more than one hundred and fifty persons are employed an additional box or cupboard for every additional one hundred and fifty persons.

For the purposes of this provision the number of persons employed in a factory shall be taken to be the largest number of persons employed therein at any one time, and any fraction of one hundred and fifty shall be reckoned as one hundred and fifty. Where the persons employed are employed in shifts the calculation of the number employed shall be according to the largest number at work at any one time.

(2) Nothing except appliances or requisities for first-aid shall be kept in a first-aid box or cupboard.

(3) Each first-aid box or cupboard shall be placed under the charge of a responsible person who shall, in the case of a factory where more than fifty persons are employed, be trained in first-aid treatment, and the person in charge shall always be readily available during working hours. A notice shall be affixed in every workroom stating the name of the person in charge of the first-aid box or cupboard provided in respect of that room.

(4) If an ambulance room is provided at the factory and such arrangements are made as to ensure the immediate treatment there of all injuries occurring in the factory, the chief inspector may by certificate exempt the factory from the requirements of this section to such extent and subject to such conditions as he may specify in the certificate.

PART V.

HEALTH, SAFETY AND WELFARE (SPECIAL PROVISIONS AND REGULATIONS).

Removal of dust or fumes.

51. (1) In every factory in which, in connection with any process carried on, there is given off any dust or fume or other impurity of such a character and to such extent as to be likely to be injurious or offensive to the persons employed, or any substantial quantity of dust of any kind, all practicable measures shall be taken to protect the persons employed

against inhalation of the dust or fume or other impurity and to prevent its accumulating in any workroom, and in particular, where the nature of the process makes it practicable exhaust appliances shall be provided and maintained, as near as possible to the point of origin of the dust or fume or other impurity, so as to prevent it entering the air of any workroom.

(2) No stationary internal combustion engine shall be used unless—

- (a) provision is made for conducting the exhaust gases from the engine into the open air; and
- (b) the engine (except when used for the purpose of being tested) is so partitioned off from any workroom or part of a workroom, in which persons are employed other than persons attending to the engine, as to prevent any injurious fumes from the engine entering the air of the room or part of the room.

52. (1) Where in any room lead, arsenic or other poisonous substance is so used as to give rise to any dust or fume, a person shall not be permitted to partake of food or drink in that room or to remain in that room during the intervals allowed to him for meals or rest other than intervals allowed in the course of a spell of continuous employment.

Meals in certain dangerous trades.

(2) Where in any room a process prescribed by regulations made by the Executive Committee is carried on, being a process which gives rise to siliceous dust or asbestos dust, a person shall not be permitted to remain in that room during the intervals allowed to him for meals or rest other than intervals allowed in the course of a spell of continuous employment.

(3) Suitable provision shall be made for enabling the persons employed in any such room as is mentioned in the last two foregoing sub-sections to take their meals elsewhere in the factory.

(4) Where it appears to the Registrar that, by reason of the nature of any process, it is injurious to health or otherwise undesirable to take meals in rooms where that process is carried on or to remain therein during the intervals allowed for meals or rest, he may, if he thinks fit, by order extend all or any of the provisions of sub-sections (1) and (3) of this section to rooms where that process is carried on.

53. In the case of any such process as may be specified by regulations of the Executive Committee, being a process which involves a special risk of injury to the eyes from particles or fragments thrown off in the course of the process, suitable goggles or effective screens shall, in accordance with any directions given by the regulations, be provided to protect the eyes of the persons employed in the process.

Protection of eyes in certain processes.

54. The Executive Committee may make such special regulations as appear to that Committee to be reasonably practicable for extending the provision and use in factories, in which the weaving of cotton or other cloth is carried on, of shuttles which are not capable of being threaded or readily threaded by suction of the mouth, and any such regulations may impose duties on persons employed as well as on occupiers.

Shuttle threading by mouth suction.

55. (1) No person shall use white phosphorus in the manufacture of matches.

Prohibition of use of white phosphorus in manufacture of matches.

(2) For the purposes of this Part of this Ordinance the expression "white phosphorus" means the substance usually known as white or yellow phosphorus.

56. (1) No work shall be carried on in any underground room (not being an underground room used only for the purpose of storage or for some purpose excepted by order of the Registrar) which is certified by the inspector for the district to be unsuitable for the purpose as regards construction, height, light or ventilation, or on any hygienic ground, or on the ground that adequate means of escape in case of fire are not provided:

Underground rooms.

Provided that, where the inspector certifies as unsuitable any room which is in actual use, he shall suspend the operation of the certificate for such period as he considers reasonable with a view to enabling the occupier to render the room suitable or to obtain other premises.

(2) In the case of any underground room which at the appointed date does not form part of a factory or is not used as a workroom in a factory or is used only for the purpose of storage or for some purpose excepted as aforesaid—

- (a) the occupier shall, before the room is used for work for which it may be certified as unsuitable under this section, give notice, in such form and containing such particulars as may be prescribed, to the inspector for the district; and

(b) shall not use the room for any such process as may be prescribed, being a process of a hot, wet, or dusty nature, or which is liable to give off any fume, without the consent in writing of the inspector for the district.

(3) If the occupier is aggrieved by any decision of an inspector under this section, he may, within twenty-one days of the date of issue of the certificate or the refusal of the consent as the case may be, appeal therefrom to the Board of Appeal, and, pending the final determination of an appeal against a decision under sub-section (1) of this section in the case of a room in actual use, no offence shall be deemed to be committed under that sub-section in respect of the room to which the appeal relates, and the decision of the Board shall in all cases be binding on the occupier and the inspector.

(4) In this section the expression "underground room" means any room which or any part of which is so situate that half or more than half the whole height thereof, measured from the floor to the ceiling, is below the surface of the footway of the adjoining street or of the ground adjoining or nearest to the room.

(5) Any certificate issued under this section may be withdrawn by the chief inspector if such alterations are made as in his opinion to render the room suitable.

Laundries.

57. In every laundry—

- (a) effective steps shall be taken by means of a fan or otherwise to regulate the temperature in every ironing room, and to carry away the steam in every wash-house;
- (b) all stoves for heating irons shall be so separated from any ironing room or ironing table as to protect the workers from the heat thereof;
- (c) no gas iron emitting any noxious fumes shall be used.

Lifting excess weights.

58. (1) A young person shall not be employed to lift, carry or move any load so heavy as to be likely to cause injury to him.

(2) The Executive Committee may make special regulations prescribing the maximum weights which may be lifted, carried or moved by persons employed in factories; and any such regulations may prescribe different weights in different circumstances and may relate either to persons generally or to any class of persons or to persons employed in any class or description of factory or in any process.

Special Regulations for Safety and Health.

Power to make special regulations for safety and health.

59. (1) Where the Executive Committee is satisfied that any manufacture, machinery, plant, process, or description of manual labour, used in factories is of such a nature as to cause risk of bodily injury to persons employed in connection therewith, or any class of those persons, the Committee may, subject to the provisions of this Ordinance, make such special regulations as appear to it to be reasonably practicable and to meet the necessity of the case.

(2) Special regulations so made may, among other things,—

- (a) prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, process, or description of manual labour; or
- (b) prohibit, limit, or control the use of any material, or process; or
- (c) modify or extend with respect to any class or description of factory any provisions of Part II., Part III. or this Part, being provisions imposing requirements as to health or safety;

and may impose duties on owners, employed persons and other persons, as well as on occupiers.

(3) Special regulations so made may apply to all factories in which the manufacture, machinery, plant, process, or description of manual labour is used or to any specified class or description of such factories, and may provide for the exemption of any specified class or description of factory either absolutely or subject to conditions.

Supplementary Provisions.

Power to take samples.

60. (1) An inspector may at any time after informing the occupier or if the occupier is not readily available, a foreman or other responsible person in the factory, take for analysis sufficient samples of any material in use or mixed for use in any manufacture or of any substance used or intended to be used in a factory being a substance in respect of which he suspects a contravention of any regulation made under this Part of this Ordinance, or which in his opinion is likely to cause bodily injury to the persons employed.

(2) The occupier or the foreman or other responsible person aforesaid may, at the time when a sample is taken under this section, and on providing the necessary appliances require the inspector to divide the sample into three parts, to mark and seal or fasten up each part in such manner as its nature permits, and—

- (a) to deliver one part to the occupier, or the foreman or other responsible person aforesaid ;
- (b) to retain one part for future comparison ;
- (c) to submit one part to the analyst ;

and any analysis under this section shall, if so required, be carried out by the Government Analyst's Department.

(3) A certificate purporting to be a certificate by the Government Analyst as to the result of an analysis of a sample under this section shall in any proceedings under this Ordinance be admissible as evidence of the matters stated therein but either party may require the person by whom the analysis was made to be called as a witness.

(4) It shall not be lawful for any person, except in so far as is necessary for the purposes of a prosecution for an offence under this Ordinance, to publish or disclose to any person the results of an analysis made under this section, and if any person acts in contravention of this sub-section, he shall be liable to a fine not exceeding five hundred rupees.

PART VI.

NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND INDUSTRIAL DISEASES.

61. (1) Where any accident occurs in a factory which either—

Notification of accidents.

- (a) causes loss of life to a person employed in that factory ;
- or
- (b) disables any such person for more than seven days from earning full wages at the work at which he was employed ;

written notice of the accident, in such form and accompanied by such particulars as may be prescribed shall forthwith be sent by the occupier of the factory to the inspector for the district.

(2) Where any accident causing disablement is notified under this section, and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent to the inspector for the district by the occupier of the factory as soon as the death comes to his knowledge.

(3) Where any accident to which this section applies occurs to a person employed and the occupier of the factory is not the actual employer of the person killed or injured, the actual employer shall, if he fails to report the accident to the occupier immediately, be guilty of an offence and liable to a fine not exceeding fifty rupees.

62. (1) If the Executive Committee considers that, by reason of the risk of serious bodily injury to persons employed, it is expedient that notice should be given under the next preceding section in every case of any special class of explosion, fire, collapse of buildings, accidents to machinery or plant, or other occurrences in a factory, the Executive Committee may by regulations extend the provisions of that section to any such class of occurrences, whether death or disablement is caused or not.

Power to extend to dangerous occurrences provisions as to notice of accidents.

(2) The Executive Committee may by any such regulations allow the required notice of any occurrence to which the regulations relate, instead of being sent forthwith, to be sent within the time limited by the regulations.

63. (1) Every registered medical practitioner attending on or called in to visit a patient whom he believes to be suffering from lead, phosphorus, arsenical or mercurial poisoning, or anthrax, contracted in any factory, shall (unless such a notice has been previously sent) forthwith send addressed to the chief inspector a notice stating the name and full postal address of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, and the name and address of the factory in which he is or was last employed, and shall be entitled in respect of every notice sent in pursuance of this section to a fee of two rupees and fifty cents, to be paid out of the general revenue.

Notification of industrial diseases.

(2) If, in contravention of the provisions of this section, any medical practitioner fails to send any notice in accordance with the requirements thereof, he shall be liable to a fine not exceeding fifty rupees.

(3) Written notice of every case of lead, phosphorus, or arsenical or mercurial poisoning, or anthrax, occurring in a factory shall forthwith be sent by the occupier, in such form

and accompanied by such particulars as may be prescribed to the inspector for the district and to the examining surgeon; and the provisions of this Ordinance with respect to the notification of accidents shall apply to any such case in like manner as to any such accident as is mentioned in those provisions:

(4). The Executive Committee may, as respects all factories or any class or description of factory, by regulations apply the provisions of this section to any disease other than those mentioned in this section.

Investigation into case of death by accident or industrial disease.

64. (1) Where it appears to an inquirer holding an investigation under the Criminal Procedure Code into the cause of the death of any person that the death of that person may have been caused by any accident or disease of which notice is required by this Ordinance to be given, the inquirer shall adjourn the investigation unless an inspector or some person on behalf of the Registrar is present to watch the proceedings, and shall, at least four days before holding the adjourned investigation, send to the inspector for the district notice in writing of the time and place of holding the adjourned investigation:

Provided that—

- (a) the inquirer, before the adjournment, may take evidence to identify the body, and may order the interment thereof; and
- (b) if the investigation relates to the death of not more than one person, and the inquirer has sent to the inspector notice of the time and place of holding the investigation at such time as to reach the inspector not less than twenty-four hours before the time of holding the investigation, it shall not be imperative on him to adjourn the investigation in pursuance of this section if he thinks it unnecessary so to adjourn.

(2) At any investigation referred to in sub-section (1), the following persons shall, subject to the power of the inquirer to disallow any question which in his opinion is not relevant or is otherwise not a proper question, be entitled to examine any witness either in person or by counsel, proctor or agent, that is to say, an inspector, any relation of the person in respect of whose death the investigation is being held, the occupier of the factory in which the accident or disease occurred or was contracted, any person appointed by the order in writing of the majority of the persons employed in the factory, and any person appointed in writing by any trade union, friendly society or other association of persons to which the deceased at the time of his death belonged or to which any person employed in the factory belongs, or by any association of employers of which the occupier is a member.

(3) Where evidence is given at any such investigation at which an inspector is not present of any neglect as having caused or contributed to the accident or disease, or of any defect in or about the factory appearing to the inquirer to require a remedy, the inquirer shall send to the inspector for the district notice in writing of the neglect or defect.

(4) Any reference in this section to an inquirer shall be deemed to include a reference to a Magistrate.

Power to direct formal investigation of accidents and cases of disease.

65. (1) The Minister may, where he considers it expedient so to do, direct a formal investigation to be held into any accident occurring or case of disease contracted or suspected to have been contracted in a factory and of its causes and circumstances, and with respect to any such investigation the following provisions shall have effect:—

- (a) the Minister may appoint a competent person to hold the investigation, and may appoint any person possessing legal or special knowledge to act as assessor in holding the investigation;
- (b) the person or persons so appointed (hereinafter in this section referred to as "the court") shall hold the investigation in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident or case of disease, and for enabling the court to make the report in this section mentioned;
- (c) the court shall have for the purposes of the investigation all the powers of a Magistrate when hearing complaints relating to offences under this Ordinance, and all the powers of an inspector under this Ordinance, and, in addition, power—

- (i) to enter and inspect any place or building the entry or inspection whereof appears to the court requisite for the said purposes;

- (ii) by summons signed by the court to require the attendance of all such persons as it thinks fit to call before it and examine for the said purposes, and to require answers or returns to such inquiries as it thinks fit to make;
 - (iii) to require the production of all books, papers, and documents which it considers important for the said purposes;
 - (iv) to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination;
- (d) witnesses attending the court to give evidence shall be paid expenses according to such scale as may be prescribed by regulations made by the Executive Committee;
- (e) the court shall make a report to the Minister stating the causes and circumstances of the accident or case of disease and its circumstances, and adding any observations which the court thinks right to make;
- (f) the court may require the expenses incurred in and about an investigation under this section (including the remuneration of any persons appointed to act as assessors) to be paid in whole or part by any person summoned before it who appears to the court to be, by reason of any act or default on his part or on the part of any servant or agent of his, responsible in any degree for the occurrence of the accident or case of disease, but any such expenses not required to be so paid shall be met out of the general revenue;
- (g) any person who without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of the court, or prevents or impedes the court in the execution of its duty, shall be guilty of an offence, and liable to a fine not exceeding one hundred rupees, and, in the case of a failure to comply with a requisition for making any return or producing any document, if the failure in respect of which a person was so convicted is continued after the conviction, he shall (subject to the provisions of section 108) be guilty of a further offence and liable in respect thereof to a fine not exceeding one hundred rupees for every day on which the failure was so continued.
- (2) The Minister may cause the report of the court to be made public at such time and in such manner as he thinks fit.

66. (1) It shall be the duty of the examining surgeon to investigate and report—

- (a) upon cases of death or injury caused by exposure in a factory to fumes or other noxious substances, or due to any other special cause specified in instructions of the Registrar as requiring investigation; and
- (b) upon any case of death or injury which the inspector for the district in pursuance of any general or special instructions of the Registrar may refer to him for that purpose; and
- (c) upon any case of disease of which he receives notice under this Ordinance.

(2) The examining surgeon, for the purpose of an investigation under this section, shall have the like powers as an inspector, including power to enter any room in a building to which the person killed, injured, or affected has been removed.

Duty of examining surgeon to investigate and report in certain cases.

PART VII.

EMPLOYMENT OF WOMEN AND YOUNG PERSONS.

Hours and Holidays.

67. Subject to the provisions of this Part, the hours worked, the period of employment, and the intervals for meals and rest, for every woman or young person employed in a factory shall conform to the following conditions, namely:—

- (a) the total hours worked, exclusive of intervals allowed for meals and rest, shall neither exceed nine in any day nor exceed forty-eight in any week;
- (b) the period of employment shall not exceed twelve hours in any day and shall neither begin earlier than six o'clock in the morning nor end later than six o'clock in the evening in the case of young persons who have not attained the age of sixteen, or in other cases eight o'clock in the evening, and, on not less than one day in the week, one o'clock in the afternoon;

General conditions as to hours of employment of women and young persons.

- (c) a woman or young person shall not be employed continuously for a spell of more than four and a half hours without an interval of at least half an hour for a meal or rest, so, however, that one such interval shall be allowed to commence between the hours of eleven o'clock in the morning and one o'clock in the afternoon, and that where an interval of not less than ten minutes is allowed in the course of a spell, the spell may be increased to five hours.

Overtime employment of women and young persons over sixteen.

68. (1) Notwithstanding the provisions of this Part relating to hours worked and periods of employment, pressure of work in any factory may be dealt with by the overtime employment of women and young persons who have attained the age of sixteen :

Provided that the overtime worked by any woman or by any young person who has attained the age of sixteen shall not exceed in the aggregate one hundred hours in any calendar year or six hours in any week and no woman and no such young person shall work overtime in more than twenty-five weeks in any calendar year.

(2) The overtime employment of a woman or young person shall be subject to the following conditions :—

- (a) the total hours worked by the woman or young person, exclusive of intervals allowed for meals and rest, shall not exceed ten on any day ;
- (b) the period of employment for the woman or young person shall not exceed twelve hours in any day and shall not extend outside the hours specified in this Part for the beginning and end of the period of employment, except that in the case of women it may extend to nine o'clock in the evening on weekdays other than the day on which such period is, under paragraph (b) of section 67, required to end at one o'clock in the afternoon.

(3) The provisions of this Part relating to continuous employment and intervals for meals or rest shall apply to overtime employment in like manner as they apply to other employment.

(4) If the Executive Committee is satisfied that overtime employment of young persons, in accordance with the foregoing provisions of this section, in any process will prejudicially affect the health of the young persons, or any class of them, the Committee may by regulations either prohibit the overtime employment in that process of those young persons, or that class of them, or make such further restrictions as to the amount of such overtime employment or otherwise as the Executive Committee may think fit.

(5) If representations are made to the Executive Committee with respect to any class or description of factory that, having regard to the particular circumstances and conditions affecting the industry carried on therein, the overtime employment allowed under this section can be reduced without serious detriment to that industry, the Committee may, after consultation with any such association of occupiers or employed persons and any such Wages Board or similar body as appears to him to be affected, direct an inquiry to be held, and if the Executive Committee is satisfied, as the result of the inquiry, that the overtime employment can be reduced without serious detriment to the industry, the Committee may by regulations make such modifications in the provisions of this section, in their application to the class or description of factory aforesaid, as will secure the reduction of the amount of overtime employment of women and young persons, or of young persons, employed therein.

(6) Where the Executive Committee is satisfied that work in any class or description of factory is subject to seasonal or other special pressure, the Committee may by regulations, as respects that class or description of factory, increase for women, or for women employed in any specified process, during any period of such pressure, the hours of work and the period of employment allowed in a day under this section, so however that the increase shall only take place in such number of weeks, not exceeding eight in any year, as may be specified in the regulations.

Definition of "overtime employment."

69. For the purposes of this Part—

- (a) the expression "overtime employment" means, in relation to any woman or young person, any period during which that woman or young person is at work in the factory in addition to the total number of hours worked by that woman or young person under paragraph (a) of section 67 ;

(b) in calculating hours of overtime employment any fraction of an hour less than half an hour shall be treated as half an hour and any fraction of an hour greater than half an hour shall be treated as an hour.

70. The occupier of every factory shall keep and maintain a register, in such form as may be prescribed by regulations, setting out particulars of the overtime work performed by each woman or young person employed in the factory.

Register of overtime.

71. (1) A woman or young person shall not, during any interval allowed to that woman or young person for a meal or rest, or any time not included in the period of employment of that woman or young person be employed outside the factory, in the business of the factory or in any other business carried on by the occupier, on any day during which the woman or young person is employed in the factory :

Restriction of employment inside and outside factory on same day.

Provided that a woman or young person who has attained the age of sixteen may be so employed in a shop outside the period of employment, but any such employment shall be treated for the purposes of this Part (including the provisions relating to overtime employment) as employment in the factory.

(2) For the purposes of this section, a woman or young person to or for whom any work is given out or who takes out any work to be done by her or him outside the factory, shall be deemed to be employed outside the factory on the day on which the work is so given or taken out.

72. Subject to such regulations as may be made under section 76, a woman or young person shall not during any part of the intervals allowed to that woman or young person for meals or rest be allowed to remain in a room in which a process is then being carried on.

Prohibition of use of rooms during intervals.

73. (1) Subject to such regulations as may be made under sub-section (2) or section 76,

Weekly and annual holidays.

(a) a woman or young person shall not be employed in a factory on Sunday or on such other weekday as may be prescribed in lieu of Sunday, nor shall a woman or young person employed in any factory on any other day of the week, be employed on Sunday or such prescribed weekday about the business of the factory or in any other business carried on by the occupier ; and

(b) every woman or young person employed in a factory shall in each year be allowed whole holidays on six consecutive weekdays which shall be fixed by the occupier and notified by means of a notice posted up in the factory throughout a period of not less than three weeks before the first of such weekdays.

(2) If the Executive Committee is satisfied that, by reason of the fact that the materials in course of treatment in any class or description of factory are subject to rapid deterioration, or that by reason of any other circumstances or conditions obtaining in the case of any class or description of factory, the application of the provisions of paragraph (a) of sub-section (1), in the case of factories of that class or description would cause serious interference with the efficient performance of work in such factories, the Committee may by regulations exempt factories of that class or description from the provisions of the said paragraph, subject to such conditions as may be prescribed, so, however, that such regulations shall ensure to each woman and young person employed in any such factory at least one whole holiday after each period of not more than six days during which that woman or young person has been employed in that factory.

74. The foregoing provisions of this Part shall not apply to women holding responsible positions of management who are not ordinarily engaged in manual work.

Exception as to women holding positions of management.

75. The Registrar may, in the event of accident, or break-down of machinery or plant, or other unforeseen emergency, by order suspend, as respects any factory, any of the provisions of this Part as to hours and holidays for such period as may be specified in the order, but so far only as may be necessary to avoid serious interference with the ordinary working of the factory and not so as to conflict with any enactment which gives effect to an international convention restricting the employment of women or young persons in factories.

Power to suspend certain provisions of Part VII in emergency.

Provision for protection of women and young persons employed under exceptions.

76. Where it appears to the Executive Committee that the adoption of any special provision is required for the protection of the health or welfare of women or young persons employed overtime under this Part, the Executive Committee may by regulations direct that the adoption of the provision shall be a condition of such employment in addition to any other conditions specified in this Part.

Power of inspector to require certificate of fitness for work.

77. Where an inspector is of opinion that the employment of any young person in a factory or in any particular process or kind of work in a factory is prejudicial to his health or the health of other persons, he may serve written notice thereof on the occupier of the factory requiring that the employment of that young person in the factory or in the process or kind of work, as the case may be, be discontinued after the period named therein, not being less than one day nor more than seven days after the service of the notice; and the occupier shall not continue after the period named in the notice to employ that young person, unless the examining surgeon has, after the service of the notice, personally examined the young person, and certified that he is fit for employment in the factory or in the process or kind of work as the case may be.

PART VIII.

SPECIAL APPLICATIONS AND EXTENSIONS.

Premises in respect of which Owner is liable.

Premises where part of building is separate factory.

78. Where a part of a building is let off as a separate factory, the provisions of Part II. with respect to cleanliness and lighting, and the provisions of Part III. with respect to prime movers, transmission machinery, hoists and lifts, steam boilers, and the construction and maintenance of floors, passages and stairs, shall apply to any part of the building used for the purposes of the factory but not comprised therein, and the owner of the building shall be responsible for any contravention of the said provisions and shall also be responsible, instead of the occupier of the factory, for any contravention as respects the factory of the provisions of Part II. with respect to sanitary conveniences and the provisions of Part III. with respect to hoists and lifts, steam boilers, means of escape in case of fire, and safety provisions in case of fire, and for the purposes of the last named provisions with respect to means of escape in case of fire and safety provisions in case of fire, the factory shall be deemed to include any part of the building used for the purpose of the factory:

Provided that the owner shall not be responsible for the cleanliness of sanitary conveniences except when such conveniences are used in common by several tenants, and shall not be responsible for any contravention of the provisions relating to hoists and lifts, steam boilers, means of escape in case of fire, and safety provisions in case of fire, except in so far as the said provisions relate to matters within his control.

Electrical Stations.

Application of Ordinance to electrical stations.

79. (1) Subject as hereinafter provided, the provisions of this Ordinance shall apply to any premises in which persons are regularly employed in or in connection with the processes or operations of generating, transforming or converting, or of switching, controlling or otherwise regulating, electrical energy for supply by way of trade, or for supply for the purposes of any transport undertaking or other industrial or commercial undertaking or of any public building or public institution, or for supply to streets or other public places, as if the premises were a factory and the employer of any person employed in the premises in or in connection with any such process or operation were the occupier of a factory:

Provided, however, that the Registrar or the inspector for the district may, by order, either—

- (a) exempt any electrical station belonging to the Crown, or any electrical station operated under a licence granted under the Electricity Ordinance, from the provisions of Part VII so far as those provisions relate to the hours of employment and holidays of any young person or of all young persons employed in such station; or
- (b) direct that such provisions shall apply to any young person or all young persons so employed as varied by the order.

Cap. 158.

(2) The provisions of this Ordinance hereinafter in this sub-section mentioned shall apply to any other premises in which any such processes or operations as aforesaid are carried on or performed for such supply as aforesaid, being

premises large enough to admit the entrance of a person after the machinery or plant therein is in position, as if the premises were a factory and the employer of any person employed in the premises in or in connection with any such process or operation were the occupier of a factory, that is to say :—

- (a) the provisions of Part V. with respect to special regulations for safety and health ;
- (b) Part VI. ;
- (c) the provisions of Part XI. with respect to powers and duties of inspectors, and the regulations of the Executive Committee ;
- (d) Part XIII. ;
- (e) Part XIV. ;
- (f) Part XV.

(3) The Executive Committee may by special regulations apply any of the provisions of this Ordinance mentioned in the last foregoing sub-section to any machinery or plant used elsewhere than in premises mentioned in that sub-section or in sub-section (1) hereof, being machinery or plant used in the aforesaid processes or operations and for such supply as aforesaid, as if the machinery or plant were machinery or plant in a factory, and the employer of any person employed in connection with any such use of the machinery or plant were the occupier of a factory.

(4) Sub-sections (1) and (2) of this section shall not, except in so far as the Executive Committee may by special regulations direct, apply to any premises where the aforesaid processes or operations are only carried on or performed for the immediate purpose of working an electric motor or working any apparatus which consumes electrical energy for lighting, heating, transmitting or receiving messages or communications, or other purposes.

(5) For the purposes of the definition in section 124 of the expression "factory", electrical energy shall not be deemed to be an article, but save as aforesaid nothing in this section shall affect the application of this Ordinance to factories within the meaning of that definition.

Institutions.

80. (1) Where, in any premises forming part of an institution carried on for charitable or reformatory purposes, any manual labour is exercised in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of articles not intended for the use of the institution, but the premises do not constitute a factory, then, nevertheless, the provisions of this Ordinance shall subject as hereinafter in this section provided, apply to those premises.

Institutions.

(2) If in any such institution to which this Ordinance applies the persons having the control of the institution (hereinafter referred to as the managers) satisfy the Registrar that the only persons working therein are persons who are inmates of and supported by the institution, or persons engaged in the supervision of the work or the management of machinery, and that such work as aforesaid is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Registrar may by order direct that so long as the order is in force this Ordinance shall apply to the institution subject to the following modifications :—

- (a) The managers may submit for the approval of the Registrar a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the inmates, and if the Registrar is satisfied that the provisions of the scheme are not less favourable to the inmates than the corresponding provisions of this Ordinance, the Registrar may approve the scheme, and upon the scheme being so approved this Ordinance shall, until the approval is revoked, apply as if the provisions of the scheme were substituted for the corresponding provisions of this Ordinance.
- (b) The medical officer of the institution (if any) may, on the application of the managers, be appointed to be the examining surgeon for the institution.
- (c) The provisions of Part X as to the posting of an abstract and notices shall not apply, but among the particulars required to be shown in the general register there shall be included such particulars of the scheme as may be prescribed, or where no scheme is in force such particulars as may be prescribed as to hours of employment, intervals for meals or rest, and holidays, and other matters dealt with in this Ordinance.

- (d) In the case of premises forming part of an institution carried on for reformatory purposes, if the managers of the institution give notice to the chief inspector to that effect, an inspector shall not, without the consent of the managers or of the person having charge of the institution under the managers, examine an inmate of the institution save in the presence of one of the managers or of such person as aforesaid :

Provided that the Registrar, on being satisfied that there is reason to believe that a contravention of the provisions of this Ordinance, or of any regulation or order made thereunder, is taking place in any such institution, may suspend the operation of this paragraph as respects that institution to such extent as he may consider necessary.

- (e) The managers shall, not later than the fifteenth day of January in every year, send to the Registrar a correct return, in such form as may be prescribed, specifying the names of the managers and the name of the person (if any) having charge of the institution under the managers, and such particulars as to the number, age, sex and employment of the inmates and other persons employed in the work carried on in the institution as may be prescribed, and shall, if they fail to do so, be guilty of an offence and liable to a fine not exceeding fifty rupees.

(3) This Ordinance shall not, except in so far as the Registrar may by order direct, apply to any premises which do not constitute a factory if the premises are subject to inspection by or under the authority of a Government department.

Docks, Wharves, Quays, Warehouses and Ships.

Docks, &c.

81. (1) The provisions of this Ordinance hereinafter in this sub-section mentioned shall apply to every dock, wharf or quay (including any warehouse belonging to the owners, trustees or conservators of the dock, wharf or quay and any line or siding used in connection with and for the purposes of the dock, wharf or quay and not forming part of a railway or tramway) and every other warehouse (not forming part of a factory) in or for the purposes of which mechanical power is used, as if it were a factory and as if the person having the actual use or occupation of it or of any premises within it or forming part of it, were the occupier of a factory, that is to say :—

- (a) the provisions of Part III. with respect to steam boilers (including the provisions as to exceptions as to steam boilers) so however, that the owner of the boiler shall, instead of the person deemed to be the occupier, be responsible for any contravention of the said provisions ;
- (b) the provisions of Part III with respect to the power of the Registrar to require special safety arrangements for the prevention of accidents and to the power of the Registrar and the Board of Appeal to make orders as to dangerous conditions and practices ;
- (c) the provisions of Part IV. with respect to welfare regulations ;
- (d) the provisions of Part V. with respect to special regulations for safety and health ;
- (e) Part VI. ;
- (f) the provisions of Part VIII. with respect to premises where part of a building is a separate factory, subject to such modifications as may be made by regulations of the Executive Committee ;
- (g) the provisions of Part X. with respect to the abstract of this Ordinance and notices, special regulations, general registers (so far as applicable), preservation of registers and records, subject to such modifications as may be made by regulations of the Executive Committee, and the provisions of the said Part X. with respect to duties of persons employed, and with respect to weights, measures and weighing and measuring instruments used in ascertaining wages ;
- (h) the provisions of Part XI. with respect to powers and duties of inspectors and to regulations of the Executive Committee ;
- (i) Part XIII. ;
- (j) Part XV.

(2) Subject as hereinafter in this sub-section provided, the provisions of this Ordinance mentioned in paragraph (a) (subject to the modification mentioned in that paragraph) and in paragraphs (b), (d), (e), (g), (h) and (i) of the foregoing sub-section shall apply to the processes of loading, unloading or coaling of any ship in any dock, harbour or canal, and to all machinery or plant used in those processes, as if the processes were carried on in a factory and the machinery or plant were machinery or plant in a factory, and the person who carries on those processes were the occupier of a factory :

Provided that the provisions of this Ordinance mentioned in the said paragraphs (a) and (b) shall not apply in relation to any such machinery or plant which is on board a ship and is the property of the ship owner.

For the purposes of this sub-section, the expression " plant " includes any gangway or ladder used by any person employed to load or unload or coal a ship.

(3) The provisions of Part III with respect to prime movers, transmission machinery, other machinery, provisions as to unfenced machinery, construction and maintenance of fencing, construction and sale of new machinery, cleaning of machinery by women and young persons, training and supervision of young persons working at dangerous machines, hoists and lifts, chains, ropes and lifting tackle, cranes and other lifting machines, construction and maintenance of floors, passages and stairs, and the power of the Registrar to make orders as to dangerous factories shall apply to every warehouse mentioned in sub-section (1) of this section as if the warehouse were a factory and as if the person having the actual use or occupation thereof were the occupier of a factory.

82. (1) Subject as hereinafter in this section provided, the provisions of this Ordinance hereinafter in this section mentioned shall apply to any work carried out in a harbour or wet dock in constructing, reconstructing, repairing, refitting, painting, finishing or breaking up a ship or in scaling, scouring or cleaning boilers (including combustion chambers and smoke boxes) in a ship, or in cleaning oil-fuel tanks or bilges in a ship, that is to say :—

- (a) the provisions of Part IV. with respect to welfare regulations ;
- (b) the provisions of Part V. with respect to special regulations for safety and health ;
- (c) Part VI ;
- (d) the provisions of Part VII. with respect to hours of employment (but not with respect to the weekly and the annual holidays), subject to such modifications as may be made by regulations of the Executive Committee to meet special circumstances ;
- (e) the provisions of Part X with respect to general registers (so far as applicable), preservation of registers and records, and duties of persons employed ;
- (f) the provisions of Part XI. with respect to powers and duties of inspectors and to regulations of the Executive Committee ;
- (g) Part XIII. ;
- (h) Part XV. ;

and for the purpose of such provisions the ship shall be deemed to be a factory, and any person undertaking such work shall be deemed to be the occupier of a factory.

(2) Nothing in this Ordinance shall apply to any such work as aforesaid done by the master or crew of a ship or done on board a ship during a trial run.

Works of Building and Engineering Construction.

83. (1) Subject as hereinafter in this section provided, the provisions of this Ordinance hereinafter in this sub-section mentioned shall apply to building operations undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof and is not part of a railway or tramway, that is to say :—

- (a) the provisions of Part II., with respect to sanitary conveniences ;
- (b) the provisions of Part III., with respect to steam boilers and air receivers (including the provisions as to exceptions as to steam boilers and air receivers), and the power of the Registrar and the Board of Appeal to make orders as to dangerous conditions and practices ;
- (c) the provisions of Part IV., with respect to welfare regulations ;
- (d) the provisions of Part V., with respect to special regulations for safety and health ;

- (e) Part VI.;
- (f) the provisions of Part X. with respect to the abstract of this Ordinance and notices, special regulations, general registers (so far as applicable), preservation of registers and records, and duties of persons employed;
- (g) the provisions of Part XI., with respect to powers and duties of inspectors and to regulations of the Executive Committee;
- (h) Part XIII.;
- (i) Part XIV.;
- (j) Part XV.;

(2) The provisions of this Ordinance in their application to building operations shall have effect as if any place where such operations are carried on were a factory, and any person undertaking any such operations to which this Ordinance applies were the occupier of a factory, and with such other adaptations and modifications as may be made by regulations made by the Executive Committee:

Provided that such of the provisions of this Ordinance as require general registers to be kept and copies of the prescribed abstract of this Ordinance and of special regulations or the prescribed abstract of such regulations to be kept posted up on the premises shall be deemed to be complied with as respects building operations if the general register is kept at an office of the person undertaking the building operations and copies of the abstract of this Ordinance and of the regulations or abstract thereof are kept posted up at each office, yard, or shop of the person undertaking the operations at which persons employed by him on the operations attend, and in a position where they can easily be read by such persons.

(3) Any person undertaking any building operations to which this Ordinance applies shall, not later than seven days after the beginning thereof, serve on the inspector for the district a written notice stating the name and postal address of the person so undertaking the operations, the place and nature of the operations whether any mechanical power is used and, if so, its nature, the name of the local authority within whose area the operations are situated and such other particulars as may be prescribed:

Provided that—

- (a) this sub-section shall not apply to any operations which the person undertaking them has reasonable grounds for believing will be completed in a period of less than six weeks, except in such cases as the chief inspector may direct; and
- (b) where a person undertakes any building operations in a place where such operations are in progress, he shall not be required to give such a notice as aforesaid if a notice was given in respect of the operations in progress.

Works of
engineering
construction.

84. (1) Subject as hereinafter in this section provided, the provisions of this Ordinance hereinafter in this sub-section mentioned shall apply to works of engineering construction undertaken by way of trade or business, or for the purpose of any industrial or commercial undertaking, and to any line or siding which is used in connection therewith and for the purposes thereof and is not part of a railway or tramway, that is to say—

- (a) the provisions of Part II., with respect to sanitary conveniences;
- (b) the provisions of Part III., with respect to steam boilers and air receivers (including the provisions as to exceptions as to steam boilers and air receivers), and the power of the Registrar and the Board of Appeal to make orders as to dangerous conditions and practices;
- (c) the provisions of Part IV., with respect to welfare regulations;
- (d) the provisions of Part V., with respect to special regulations for safety and health;
- (e) Part VI.;
- (f) the provisions of Part X., with respect to the abstract of this Ordinance and notices, special regulations, general registers (so far as applicable), preservation of registers and records, and duties of persons employed;
- (g) the provisions of Part XI., with respect to powers and duties of inspectors and to regulations of the Executive Committee;
- (h) Part XIII.;
- (i) Part XIV.;
- (j) Part XV.:

Provided that no order made under the provisions of this Ordinance with respect to dangerous conditions and practices and no special regulations made under Part V shall operate so as to interfere with the design of any works of engineering construction or with the adoption in the execution of those works of any method prescribed in the specification or in any signed plans issued, or written directions given, by the consulting engineer or the engineer in charge, being a method which is not inconsistent with the safety of the works or of the persons employed.

(2) The provisions of this Ordinance in their application to works of engineering construction shall have effect as if any place where such works are carried on were a factory, and any person undertaking any such works to which this Ordinance applies were the occupier of a factory, and with such other adaptations and modifications as may be made by regulations made by the Executive Committee :

Provided that such of the provisions of this Ordinance as require general registers to be kept and copies of the prescribed abstract of this Ordinance and of special regulations or the prescribed abstract of such regulations to be kept posted up on the premises shall be deemed to be complied with as respects works of engineering construction if the general register is kept at an office of the person undertaking the works and copies of the abstract of this Ordinance and of the regulations or abstract thereof are kept posted up at each office, yard or shop of the person undertaking the works at which persons employed by him on the works attend, and in a position where they can easily be read by such persons.

(3) Any person undertaking any works of engineering construction to which this Ordinance applies shall, not later than seven days after the beginning thereof, serve on the inspector for the district a written notice stating the name and postal address of the person so undertaking the works, the place and nature of the works, whether any mechanical power is used, and, if so, its nature, the name of the local authority within whose area the works are situate and such other particulars as may be prescribed :

Provided that—

- (a) this sub-section shall not apply to any works which the person undertaking them has reasonable ground for believing will be completed in a period of less than six weeks, except in such cases as the chief inspector may direct ; and
- (b) if a person undertakes any works of engineering construction in a place where such works are in progress, he shall not be required to give such a notice as aforesaid if a notice was given in respect of the works in progress.

Lead Processes carried on in Places other than Factories.

85. The following provisions of this Ordinance, that is to say :—

- (a) the provisions relating to the employment of women and young persons in certain processes connected with lead manufacture and in processes involving the use of lead compounds ;
- (b) the provisions requiring notification to be sent to the chief inspector, or to the inspector for the district, of lead poisoning contracted or occurring in factories ; and
- (c) any provision relating to powers and duties of inspectors and to offences, penalties and legal proceedings ;

shall apply to employment in any such processes as aforesaid in any place other than a factory, as if the place were a factory and the employer were the occupier of the factory and as if the references to young persons included references to all persons who had not attained the age of eighteen.

Employment of women and young persons in places other than factories in processes connected with lead manufacture or involving the use of lead compounds.

PART IX.

HOME WORK.

86. (1) In the case of persons employed in such classes of work as may from time to time be specified by regulations of the Executive Committee, the occupier of every factory and every contractor employed by any such occupier in the business of the factory shall—

- (a) keep, in such form and manner and with such particulars as may be prescribed, lists showing the names and addresses of all persons (hereinafter referred to as outworkers) directly employed by him, either as workmen or as contractors, in the business of the factory, outside the factory, and of the places where they are employed ; and

Lists of outworkers to be kept in certain trades.

(b) send to an inspector such copies of or extracts from those lists as the inspector may from time to time require, and during the month of February and the month of August in each year copies of those lists, showing all outworkers so employed by him during the preceding six months.

(2) The lists kept by the occupier or contractor shall be open to inspection by any inspector, and by any officer duly authorised by the Governor, and the copies sent to the inspector shall be open to inspection by any inspector or officer of any Government department.

(3) This section shall apply to any place from which any work is given out in connection with the business of a factory (whether the materials for the work are supplied by the occupier or not), and to the occupier of that place, and to every contractor employed by the occupier in connection with the said work, as if that place were a factory.

(4) In the event of a contravention of this section by the occupier of a factory or place, or by a contractor, the occupier or contractor shall be guilty of an offence and liable to a fine not exceeding one hundred rupees.

Employment of person in unwholesome premises.

87. (1) Where work in respect of which this section applies is carried on for the purpose of or in connection with the business of a factory in any place which is in the opinion of an inspector injurious or dangerous to the health of the persons employed therein, the inspector may give notice in writing to the occupier of the factory or to any contractor employed by him setting forth particulars of the respects in which the place is, in his opinion, so injurious or dangerous, and the reasons for that opinion, and may by order in writing prohibit the giving out of work to be done in that place.

(2) The occupier of any factory or any contractor who is aggrieved by any order made under sub-section (1) may prefer an appeal, within twenty-one days of the order, to the Board of Appeal, and the order shall be deemed to be suspended pending the final determination of the appeal.

(3) For the purpose of this section, any place from which work is given out shall be deemed to be a factory.

(4) This section shall apply in respect of such classes of work as may be specified in regulations made by the Executive Committee.

PART X.

MISCELLANEOUS.

Notice of use of mechanical power.

88. Within one month of the date upon which mechanical power is, after the appointed date, first used in any factory, the occupier shall serve on the inspector for the district a written notice stating the nature of such mechanical power.

Posting of abstract of Ordinance and notices.

89. (1) There shall be kept posted at the principal entrances of a factory at which employed persons enter—

- (a) the prescribed abstract of this Ordinance; and
- (b) a notice of the address of the inspector for the district and of the chief inspector of factories; and
- (c) a notice of the name and address of the examining surgeon for the factory; and
- (d) a notice specifying the clock (if any) by which the period of employment and intervals for meals and rest in the factory are regulated; and
- (e) every notice and document required by this Ordinance to be posted in the factory:

Provided that an inspector may direct that all or any of the aforesaid documents shall be posted in such parts of the factory, either in addition to or in substitution for the said principal entrances, as he may direct.

(2) All such documents shall be posted in such characters and in such positions as to be conveniently read by the persons employed in the factory and, if a form has been prescribed for any document, it shall be posted in that form.

(3) If any person pulls down, injures or defaces any abstract, notice, regulations or other document posted in pursuance of this Ordinance, he shall be guilty of an offence and liable to a fine not exceeding fifty rupees.

Provisions as to special regulations.

90. (1) Printed copies of all special regulations for the time being in force in any factory or the prescribed abstract of such regulations shall be kept posted in the factory in such characters and in such positions as to be conveniently read by the persons employed in the factory.

(2) A printed copy of all such regulations shall be given by the occupier to any person affected thereby on his application.

91. (1) There shall be kept in every factory, or in such place outside the factory as may be approved by the inspector for the district, a register, called the general register substantially in such form as may be prescribed, and there shall be entered in or attached to that register—

General registers.

- (a) such particulars as may be prescribed as to the young persons employed in the factory; and
- (b) such particulars as may be prescribed as to the washing, whitewashing or colour washing, painting or varnishing, of the factory; and
- (c) such particulars as may be prescribed as to every accident and case of industrial disease occurring in the factory of which notice is required to be sent to an inspector; and
- (d) particulars showing every special exception of which the occupier of the factory avails himself; and
- (e) all reports and particulars required by any other provision of this Ordinance to be entered in or attached to the general register; and
- (f) such other matters as may be prescribed.

(2) There shall be attached to the general register a copy of the certificate of the inspector relating to means of escape in the case of fire.

(3) The occupier of a factory shall send to an inspector such extracts from the general register as the inspector may from time to time require for the purpose of the execution of his duties under this Ordinance.

92. The general register and every other register or record kept in pursuance of this Ordinance shall be preserved and shall be kept available for inspection by any inspector or by the examining surgeon for at least two years, or such other period as may be prescribed for any class or description of register or record, after the date of the last entry in the register or record.

Preservation of registers and records.

93. (1) The occupier of every factory shall, at intervals of not less than one year, on or before such days as the Registrar may direct, send to the chief inspector a correct return specifying, with respect to such day or days, or such period as the Registrar may direct, the number of persons employed in the factory, and giving such particulars as may be prescribed, as to the hours of employment of women and young persons employed, as to the age, sex, and occupation of all persons employed, and as to such other matters, if any, as the Registrar may direct.

Periodical return of persons employed.

(2) The occupier of any place to which any of the provisions of this Ordinance apply shall, if so required by the Registrar, make a like return to the chief inspector.

(3) The Registrar may, for the purpose of facilitating the rendering of the returns under this section by occupiers, arrange for the consolidation of those returns with any other returns which any Government department is empowered to call for from occupiers.

94. (1) No person employed in a factory or in any other place to which any provisions of this Ordinance apply shall wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Ordinance for securing the health, safety or welfare of the persons employed in the factory or place, and where any means or appliance for securing health or safety is provided for the use of any such person under this Ordinance, he shall use the means or appliance.

Duties of persons employed.

(2) No person employed in a factory or in any other place to which any provisions of this Ordinance apply shall wilfully and without reasonable cause do anything likely to endanger himself or others.

95. (1) All the provisions of law, for the time being in force in Ceylon relating to weights and measures or weighing or measuring instruments shall extend to weights, measures, and weighing instruments used in a factory for the purpose of checking or ascertaining the wages of any person employed therein, in like manner as if they were used for trade, and the power of the Executive Committee to make regulations under the Weights and Measures Ordinance, shall include power to extend any such provisions to such measuring instruments used in factories for the purposes aforesaid as may be specified in the regulations.

Weights, measures and weighing and measuring instruments used in ascertaining wages.

Cap. 127.

(2) Every inspector or other person authorised under the law for the time being relating to weights and measures or weighing or measuring instruments to inspect or examine weights and measures shall inspect, stamp, mark, search for, and examine the weights and measures and weighing and measuring instruments to which such law is extended by or under this section, and for that purpose shall have the same powers and duties as he has with respect to weights, measures and instruments used for trade.

PART XI.

ADMINISTRATION.

Registrar and
Deputy and
Assistant
Registrars.

96. (1) The person for the time being holding the office or discharging the functions of the Controller of Labour shall be the Registrar for the purposes of this Ordinance.

(2) Every person for the time being holding the office or discharging the functions of a Deputy Controller of Labour or an Assistant Controller of Labour shall, as the case may be, be a Deputy Registrar or an Assistant Registrar for the purposes of this Ordinance and shall, under the general supervision and control of the Registrar, perform the like duties and exercise the like powers as the Registrar under this Ordinance.

Factories
Advisory
Board.

97. (1) There shall be a Factories Advisory Board which shall consist of—

- (a) the Registrar, who shall be Chairman,
- (b) the Director of Public Works, or, subject to any regulation under paragraph (c) of sub-section (3), an officer of his Department,
- (c) the Director of Medical and Sanitary Services, or, subject to any regulation under paragraph (c) of sub-section (3), an officer of his Department, and
- (d) four other members, each of whom shall be appointed by the Governor, to represent the interests, respectively, of the occupiers of agricultural produce factories, the persons employed in such factories, the occupiers of factories other than agricultural produce factories, and the persons employed in such factories.

(2) It shall be the duty of the Factories Advisory Board—

- (a) to advise the Registrar on all matters incidental or relating to the safety and welfare of workers in factories and on all other matters which the Registrar may refer to the Board ;
- (b) to advise the Executive Committee on all matters which the Committee may refer to the Board ;
- (c) to perform and exercise such duties and powers as may be prescribed by or under this Ordinance.

(3) Regulations may be made for or in respect of—

- (a) the term of office of members of the Board appointed under paragraph (d) of sub-section (1) and the manner in which any casual or other vacancy occurring among such members shall be filled ;
- (b) the manner in which meetings of the Board shall be convened, the conduct of business by the Board and the procedure to be followed at meetings of the Board ;
- (c) the delegation by the Director of Public Works, or by the Director of Medical and Sanitary Services, of any of his functions as a member of the Board to any officer of his Department.

(4) Subject to any regulations that may be made, the Board may regulate its own procedure.

(5) For the purposes of this section, " agricultural produce factory " includes any factory used for the purpose of manufacturing tea from the leaf of the tea plant, or sheet or crepe rubber from the latex of the rubber plant, and any other factory used wholly or mainly for the process of turning any raw agricultural produce into a marketable condition.

Appointment of
chief inspector
and inspectors
of factories.

98. The Governor may, for the purposes of this Ordinance, appoint any person by name or by office to be or to act as chief inspector of factories and such number of inspectors of factories as he may deem necessary.

Powers of
inspectors.

99. (1) The Registrar, the chief inspector, an inspector, and any qualified engineer who is in the service of the Government and is authorised in this behalf by the Registrar shall, for the purpose of the execution of this Ordinance, have power to do all or any of the following things, that is to say:—

- (a) to enter, inspect, and examine at all reasonable times, by day and night, a factory, and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory and any part of any building of which a factory forms part and in which he has reasonable cause to believe that explosive or highly inflammable materials are stored or used ;
- (b) to take with him one or more police officers if he has reasonable cause to apprehend any serious obstruction in the execution of his duty ;
- (c) to require the production of the registers, certificates, notices, and documents kept in pursuance of this Ordinance, and to inspect, examine, and copy any of them ;

- (d) to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Ordinance and the enactments for the time being in force relating to public health are complied with, so far as respects a factory and any persons employed in a factory ;
- (e) to require any person whom he finds in a factory to give such information as it is in his power to give as to who is the occupier of the factory ;
- (f) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Ordinance, every person whom he finds in a factory, or whom he has reasonable cause to believe to be or to have been within the preceding two months employed in a factory or employed in the business of a factory wholly or mainly outside the factory and to require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined ; so, however, that no one shall be required under this provision to answer any question or to give any evidence tending to criminate himself ;
- (g) in the case of an inspector who is a duly qualified medical practitioner, to carry out such medical examinations as may be necessary for the purposes of his duties under this Ordinance ;
- (h) to exercise such other powers as may be necessary for carrying this Ordinance into effect.

(2) The occupier of every factory, his agents and servants, shall furnish the means required by any officer referred to in sub-section (1) as necessary for an entry, inspection, examination, inquiry, the taking of samples, or otherwise for the exercise of his powers under this Ordinance in relation to that factory.

(3) If any person wilfully delays any officer referred to in sub-section (1) in the exercise of any power under this section, or fails to comply with the requisition of such officer in pursuance of this section, or to produce any register, certificate, notice or document which he is required by or in pursuance of this Ordinance to produce, or wilfully withholds any information as to who is the occupier of any factory, or conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by such officer, that person shall be deemed to obstruct such officer in the execution of his duties under this Ordinance.

(4) Where any officer referred to in sub-section (1) is obstructed in the execution of his powers or duties under this Ordinance, the person obstructing him shall be guilty of an offence, and liable to a fine not exceeding fifty rupees ; and where such officer is so obstructed in a factory, the occupier of that factory shall be guilty of an offence.

(5) Any certificate issued by a chief inspector, or an inspector for a district may be issued for a limited period or without limit of period and may be varied or revoked by him or his successor in office.

100. The Governor may, by order published in the *Gazette*, declare that any power, duty or function conferred or imposed upon or assigned to an inspector by any specified provision of this Ordinance shall be exercised, performed or discharged, as respects any specified district, by such officer (other than an inspector) as may be designated for the purpose in the order ; and, upon the publication of any such order, any provision of this Ordinance specified in the order shall have effect as if for any reference in that provision to an inspector there were substituted a reference to such officer (other than an inspector) as may be designated in the order.

Powers, &c., of inspector to be exercised by other officer in certain cases.

101. Every inspector shall be furnished with such certificate of his appointment as may be prescribed, and when visiting a factory or place to which any of the provisions of this Ordinance apply shall, if so required, produce the said certificate to the occupier or other person holding a responsible position of management at the factory.

Certificate of appointment of inspector.

102. (1) Subject to any general directions of the Registrar the chief inspector may appoint a sufficient number of registered medical practitioners to be examining surgeons for any of the purposes of this Ordinance, and may revoke any such appointment.

Appointment and duties of examining surgeons.

(2) Every appointment and revocation of appointment of an examining surgeon may be annulled by the Registrar upon appeal to him for that purpose.

(3) A registered medical practitioner who is the occupier of a factory, or is directly or indirectly interested therein, or in any process or business carried on therein, or in a patent connected therewith, shall not act as examining surgeon for that factory :

Provided that the Registrar may authorise a registered medical practitioner who is employed by the occupier of the factory in connection with the medical supervision of persons employed in the factory, but is not otherwise interested in the factory, to act as examining surgeon for that factory for the purpose of examining and certifying the fitness of young persons.

(4) The examining surgeon for any factory shall have power at all reasonable times to inspect the general register of that factory.

(5) The Executive Committee may make regulations as to the duties of examining surgeons.

(6) An examining surgeon shall, if so directed by the Registrar, make such special inquiry and examination of employed persons as may be directed.

(7) Every examining surgeon shall in each year make a report, at such time and in such form as may be prescribed, to the Registrar as to examinations made and other duties performed by him in pursuance of this Ordinance.

(8) If and so long as there is no examining surgeon for any factory, the District Medical Officer appointed for the district in which the factory is situate shall act as the examining surgeon for that factory.

(9) The fees to be paid to examining surgeons for carrying out their duties under this Ordinance shall, so far as they relate to any examination or certificate with respect to the fitness of a young person for employment in a factory or to any examination or medical supervision of persons employed in a factory carried out in pursuance of regulations or an order under this Ordinance, be paid by the occupier of that factory, and in any other case shall be defrayed out of the general revenue, and the fees shall, subject to any agreement between the examining surgeon and the occupier of a factory as respects the fees payable by the occupier, be of such amount as may be prescribed by regulations made by the Executive Committee.

Regulations.

103. (1) The Executive Committee may, after consultation with the Factories Advisory Board, make regulations for or in respect of all matters stated or required by this Ordinance to be prescribed and all matters for which regulations or special regulations are required or authorised by this Ordinance to be made, and all such other regulations as to that Committee may seem necessary for carrying out the provisions of this Ordinance or giving effect to the principles thereof.

(2) No regulation made by the Executive Committee shall have effect until it is approved by the State Council and ratified by the Governor and notification of such approval and ratification is published in the *Gazette*.

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

PART XII.

APPEALS.

Board of Appeal.

104. (1) The Governor shall appoint not less than ten persons all of whom shall form a panel from which a Board of Appeal shall be constituted as hereinafter provided for the purposes of hearing appeals under this Ordinance.

(2) Every Board of Appeal shall consist of three persons on the panel, one of whom shall be an Advocate or Proctor of the Supreme Court of not less than ten year's standing.

Appeals.

105. (1) A Board of Appeal may, on any appeal preferred under this Ordinance, confirm, vary, amend or annul the notice, order or direction appealed against or make such other order as it thinks fit.

(2) The decision of the Board on any appeal shall be final and conclusive and the appellant shall take immediate steps to carry out or give effect to the decision of the Board.

(3) Regulations may be made prescribing—

(a) the manner in which appeals under this Ordinance shall be preferred ;

(b) the forms to be used and the fees to be paid in preferring such appeals ;

(c) the procedure to be observed for convening a Board of Appeal and for the hearing of appeals ;

- (d) the remuneration to be paid to the members of a Board of Appeal ;
- (e) generally for all matters connected with or incidental to the matters mentioned in this sub-section or to the hearing and disposal of appeals.

PART XIII.

SUPPLEMENTARY.

Offences, Penalties and Legal Proceedings.

106. (1) In the event of any contravention, in or in connection with or in relation to a factory, of the provisions of this Ordinance or of any regulation or order made or direction issued thereunder, the occupier, or (if the contravention is one in respect of which the owner is by or under this Ordinance made responsible) the owner of the factory shall, subject as hereinafter in this Ordinance provided, be guilty of an offence.

(2) In the event of a contravention by an employed person of the provisions of Part X. with respect to duties of persons employed or of a contravention by any person of any regulation or order made under this Ordinance which expressly imposes any duty upon him, that person shall be guilty of an offence and the occupier or owner, as the case may be, shall not be guilty of an offence in respect of that contravention unless it is proved that he failed to take all reasonable steps to prevent the contravention.

(3) If the occupier of a factory avails himself of any special exception allowed by or under this Ordinance and fails to comply with any of the conditions attached to the exception, he shall be deemed to have contravened the provisions of this Ordinance.

(4) If any persons are employed in a factory otherwise than in accordance with the provisions of this Ordinance or of any regulation or order made thereunder, there shall be deemed to be a separate contravention in respect of each person so employed.

(5) Where an offence under this Ordinance committed by a company is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of the company, he, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

107. Subject as hereinafter in this Ordinance provided, any person guilty of an offence under this Ordinance for which no express penalty is provided by this Ordinance shall be liable to a fine not exceeding two hundred rupees, and, if the contravention in respect of which he was so convicted is continued after the conviction he shall (subject to the provisions of section 108) be guilty of a further offence and liable in respect thereof to a fine not exceeding fifty rupees for each day on which the contravention was so continued.

Fines for offences for which no express penalty provided.

108. Where the occupier or owner of a factory is convicted of an offence under this Ordinance, the court may, in addition to or instead of inflicting a fine, order him, within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the contravention occurred, and may, on application, enlarge the time so specified ; and where such an order is made, the occupier or owner shall not be liable under this Ordinance in respect of the continuation of the contravention during the time allowed by the court, but if, after the expiration of that time as originally specified or enlarged by subsequent order, the order is not complied with, the occupier or owner, as the case may be, shall be liable to a fine not exceeding fifty rupees for each day on which the non-compliance continues.

Power of court to order cause of contravention to be remedied.

109. If any person is killed, or dies, or suffers any bodily injury, in consequence of the occupier or owner of a factory having contravened any provision of this Ordinance or of any regulation or order made thereunder, the occupier or owner of the factory shall, without prejudice to any other penalty, be liable to a fine not exceeding one thousand rupees ; and subject to the provisions of sections 253D and 253E of the Criminal Procedure Code, the whole or any part of the fine may be applied for the benefit of the injured person or his family or otherwise as may be prescribed by regulations made by the Executive Committee :

Fines in case of death or injury.

Cap. 16.

Provided that—

- (a) in the case of injury to health, the occupier or owner shall not be liable to a fine under this section unless the injury was caused directly by the contravention ; and

- (b) the occupier or owner shall not be liable to a fine under this section if an information against him under this Ordinance in respect of the act or default by which the death or injury was caused, has been heard and dismissed before the death or injury occurred.

Fine for offence by parent.

110. If a young person is employed in any factory in contravention of the provisions of this Ordinance, the parent of the young person shall be guilty of an offence and liable to a fine not exceeding fifty rupees, unless it appears to the court that the contravention occurred without the consent, connivance, or wilful default of the parent.

Forgery of certificates, false entries, and false declarations.

111. If any person—

- (a) forges or counterfeits any certificate required by, under, or for the purposes of, this Ordinance or any order or regulation made thereunder ;
- (b) gives or signs any such certificate knowing it to be false in any material particular ;
- (c) knowingly utters or makes use of any such certificate so forged, counterfeited, or false as aforesaid ;
- (d) knowingly utters or makes use of as applying to any person any such certificate which does not so apply ;
- (e) personates any person named in any such certificate ;
- (f) falsely pretends to be an inspector ;
- (g) wilfully connives at any such forging, counterfeiting, giving, signing, uttering, making use, personating or pretending as aforesaid ;
- (h) wilfully makes a false entry in any register, notice, certificate, or document required by, under, or for the purposes of, this Ordinance or any order or regulation made thereunder to be kept or served or sent ;
- (i) wilfully makes or signs a false declaration required by, under, or for the purposes of, this Ordinance or any order or regulation made thereunder ;
- (j) knowingly makes use of any such false entry or declaration as aforesaid ;

he shall, without prejudice to any other penalty, be guilty of an offence under this Ordinance, and liable to a fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding three months.

Penalty on persons actually committing offence for which occupier is liable.

112. Where an act or default for which an occupier or owner is liable under this Ordinance is in fact the act or default of some agent, servant, worker or other person, that agent, servant, worker or other person shall be guilty of an offence and liable to the like fine as if he were the occupier or owner, as the case may be.

Power of occupier or owner to exempt himself from liability on conviction of the actual offender.

113. (1) Where the occupier or owner of a factory is charged with an offence under this Ordinance, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the occupier or owner of the factory proves to the satisfaction of the court—

- (a) that he has used all due diligence to enforce the execution of this Ordinance and of any relevant order or regulation made thereunder ; and
- (b) that the said other person had committed the offence in question without his consent, connivance, or wilful default,

that other person may after summary trial be convicted of the offence, and the occupier or owner shall not be guilty of the offence.

The prosecution shall have the right in any such case to cross-examine the occupier or owner if he gives evidence and any witnesses called by him in support of his charge, and to call rebutting evidence.

(2) When it is made to appear to the satisfaction of an inspector at the time of discovering an offence—

- (a) that the occupier or owner (as the case may be) of the factory has used all due diligence to enforce the execution of this Ordinance ; and
- (b) that the offence has been committed by some other specified person ; and
- (c) that it has been committed without the consent, connivance or wilful default of the occupier or owner and in contravention of his orders,

the inspector shall proceed against the person whom he believes or who is stated to be the actual offender without first proceeding against the occupier or owner of the factory.

114. Where, under this Ordinance, any person is substituted for the occupier or owner with respect to any provisions of this Ordinance, any order, summons, notice, or proceeding, which for the purpose of any of those provisions is by or under this Ordinance required or authorised to be served on or taken in relation to the occupier or owner, is hereby required or authorised (as the case may be) to be served on or taken in relation to that person.

Proceedings against persons other than occupiers or owners.

115. Where in a factory the owner or hirer of a machine or implement moved by mechanical power is some person other than the occupier of the factory, the owner or hirer shall, so far as respects any offence under this Ordinance committed in relation to a person who is employed in or about or in connection with that machine or implement, and is in the employment or pay of the owner or hirer, be deemed to be the occupier of the factory.

Owner of machine liable in certain cases instead of occupier.

116. (1) All offences under this Ordinance shall be triable summarily by a magistrate.

Prosecution of offences and recovery and application of fines.

(2) In any proceedings under this Ordinance it shall be sufficient in the p'aint or information to allege that the factory is a factory within the meaning of this Ordinance and to state the name of the ostensible occupier of the factory, or, where the occupier is a firm, the designation or title of the firm.

(3) Where, with respect to or in consequence of any accident in a factory, a report is made by any person or persons appointed to hold a formal investigation under this Ordinance or an investigation is held under Chapter XII of the Criminal Procedure Code, and it appears from the report, or from the proceedings at the investigation, that any of the provisions of this Ordinance, or any orders or regulations made thereunder, were not complied with at or before the time of the accident, summary proceedings against any person liable to be proceeded against in respect of such non-compliance may be commenced at any time within three months after the making of the report or the conclusion of the investigation.

Cap. 16.

(4) Where any offence is committed under this Ordinance by reason of a failure to make an examination, enter a report, or do any other thing, at or within a time specified by this Ordinance or any regulation or order made thereunder, the offence shall be deemed to continue until the examination is made, or the report entered, or the other thing done, as the case may be.

(5) All fines imposed and recovered under this Ordinance shall, save as otherwise expressly provided for by this Ordinance, be paid into the general revenue.

117. (1) If a person is found in a factory at any time at which work is going on or the machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purposes of this Ordinance to have been then employed in the factory.

Special provisions as to evidence.

(2) Where in any proceedings under this Ordinance with respect to a young person it appears to the court that that young person is apparently of or below the age alleged by the informant, it shall lie on the defendant to prove that the young person is not of or below that age.

(3) Where any entry is required by this Ordinance or by any order or regulations made thereunder to be made in the general register or in any other register or record, the entry made by the occupier of a factory or on his behalf shall, as against him, be admissible as evidence of the facts therein stated, and the fact that any entry so required with respect to the observance of any provision of this Ordinance or of any order or regulation made thereunder has not been made, shall be admissible as evidence that that provision has not been observed.

118. (1) Any document (including any summons or order) required or authorised to be served under this Ordinance may be served—

Service and sending of documents, &c.

- (a) on any person by delivering it to him, or by leaving it at, or sending it by post to, his residence ;
- (b) on any firm by delivering it to any partner of the firm, or by leaving it at, or sending it by post to, the office of the firm ;
- (c) on the owner or occupier of a factory (including any such owner or occupier being a company to which the Companies Ordinance, No. 51 of 1938, applies), in any such manner as aforesaid, or by delivering it, or a true copy thereof, to any person apparently not under the age of sixteen years at the factory.

(2) Any such document may be addressed, for the purpose of the service thereof on the occupier of a factory, to "the occupier" at the proper postal address of the factory, without further name or description.

(3) The foregoing provisions of this section shall apply with the necessary modifications to documents required or authorised under this Ordinance to be sent to any person, firm, owner or occupier, and to the sending, addressing, and delivery of such documents.

Certificates of birth.

119. Where the age of any person is required to be ascertained or proved for the purposes of this Ordinance any person shall on presenting a written requisition in such form and containing such particulars as may be from time to time proscribed and on payment of a fee of twenty-five cents, be entitled to obtain a certified extract under the hand of the Registrar-General of the entry in the register under the Births and Deaths Registration Ordinance of the birth of that person.

Cap. 94.

Power of district court to modify agreements.

120. If by reason of an agreement between the owner and the occupier of premises the whole or any part of which has been let as a factory the said owner or occupier is prevented from carrying out any structural or other alterations in the premises which are necessary to enable him to comply with the provisions of this Ordinance or of any regulation or order made under this Ordinance or in order to conform with any standard or requirement imposed by or under this Ordinance, he may apply by way of petition to the District Court having jurisdiction over the area in which the premises are situate, and the Court, after hearing the parties and any witnesses whom they desire to call, may make such order, setting aside or modifying the terms of the agreement, as the Court considers just and equitable in the circumstances of the case.

Power of district court to apportion expenses.

121. Where in any premises the whole or any part of which has been let as a factory any structural or other alterations are required in order to comply with the provisions of this Ordinance or of any regulation or order made under this Ordinance or in order to conform with any standard or requirement imposed by or under this Ordinance, and the owner or occupier, as the case may be, alleges that the whole or part of the expenses of the alterations ought to be borne by the occupier or owner, the owner or occupier may apply by way of petition to the District Court having jurisdiction over the area in which the premises are situate, and the Court after hearing the parties and any witnesses whom they desire to call, may make such order concerning the expenses or their apportionment as the Court considers just and equitable in the circumstances of the case, regard being had to the terms of any contract between the parties, or in the alternative the Court may at the request of the owner or occupier determine the lease.

PART XIV.

APPLICATION OF ORDINANCE.

General application of Ordinance.

122. Save as in this Ordinance otherwise expressly provided, the provisions of this Ordinance shall apply only to factories, as defined by this Ordinance, but shall, except where the contrary intention appears, apply to all such factories.

Application to factories belonging to the Crown.

123. (1) Subject as hereinafter provided, the provisions of this Ordinance shall apply to factories belonging to or in the occupation of the Crown and to building operations and works of engineering construction undertaken by or on behalf of the Crown :

Provided that such provisions shall not, during any war in which His Majesty may be engaged, apply to any factory in the occupation of any of His Majesty's forces or to any building operations or works of engineering construction undertaken by any of His Majesty's forces :

Provided, further, that the Governor may by Order exempt from this Ordinance, either wholly or to such extent or during such period as may be specified in the Order, any factory belonging to the Crown or any building operations or works of engineering construction undertaken by or on behalf of the Crown or any factory in respect of work which is being done on behalf of the Crown.

(2) In this section, "His Majesty's forces" includes the Ceylon Defence Force and the Ceylon Naval Volunteer Force.

PART XV.

INTERPRETATION AND GENERAL.

Interpretation.

124. (1) Subject to the provisions of this section, the expression "factory" means any premises in which, or within the close or curtilage or precincts of which persons are employed in manual labour in any process for or incidental to any of the following purposes, namely :—

Interpretation
of expression
"factory".

- (a) the making of any article or of part of any article ; or
- (b) the altering, repairing, ornamenting, finishing, cleaning, or washing, or the breaking up or demolition of any article ; or
- (c) the adapting for sale of any article ; being premises in which, or within the close or curtilage or precincts of which, the work is carried on by way of trade or for purposes of gain and to or over which the employer of the persons employed therein has the right of access or control :

And (whether or not they are factories by reason of the foregoing definition) the expression "factory" also includes the following premises in which persons are employed in manual labour, that is to say :—

- (i) any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted, finished or broken up ;
- (ii) any premises in which the business of sorting any articles is carried on as a preliminary to the work carried on in any factory or incidentally to the purposes of any factory ;
- (iii) any premises in which the business of washing or filling bottles or containers or packing articles is carried on incidentally to the purposes of any factory ;
- (iv) any premises in which the business of hooking, plaiting, lapping, making-up or packing of yarn or cloth is carried on ;
- (v) any laundry carried on as ancillary to another business, or incidentally to the purposes of any public institution ;
- (vi) any premises in which the construction, reconstruction or repair of locomotives, vehicles or other plant for use for transport purposes is carried on as ancillary to a transport undertaking or other industrial or commercial undertaking, not being any premises used for the purpose of housing locomotives or vehicles where only cleaning, washing, running repairs or minor adjustments are carried out ;
- (vii) any premises in which printing by letterpress, lithography, photogravure, or other similar process, or bookbinding is carried on by way of trade or for purposes of gain or incidentally to another business so carried on ;
- (viii) any premises in which the making, adaptation or repair of dresses, scenery or properties is carried on incidentally to the production, exhibition or presentation by way of trade or for purposes of gain of cinematograph films or theatrical performances, not being a stage or dressing-room of a theatre in which only occasional adaptations or repairs are made ;
- (ix) any premises in which the business of making or mending nets is carried on incidentally to the fishing industry conducted by any company or other commercial undertaking ;
- (x) any premises in which mechanical power is used in connection with the making or repair of articles of metal or wood incidentally to any business carried on by way of trade or for purposes of gain ;
- (xi) any premises in which the production of cinematograph films is carried on by way of trade or for purposes of gain, so, however, that the employment at any such premises of theatrical performers and of attendants on such theatrical performers shall not be deemed to be employment in a factory ;
- (xii) any premises in which articles are made or prepared incidentally to the carrying on of building operations or works of engineering construction, not being premises in which such operations or works are being carried on ;
- (xiii) any premises used for the storage of gas in a gas-holder having a storage capacity of not less than five thousand cubic feet.

(2) Any line or siding (not being part of a railway or tramway) which is used in connection with and for the purposes of a factory, shall be deemed to be part of the factory; and where any such line or siding is used in connection with more than one factory belonging to different occupiers, the line or siding shall be deemed to be a separate factory.

(3) A part of a factory may, with the approval in writing of the chief inspector, be taken to be a separate factory and two or more factories may, with the like approval, be taken to be a single factory.

(4) Any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a factory if the persons working therein were in the employment of the owner or occupier, shall be deemed to be a factory for the purposes of this Ordinance, and, in the case of any such workplace the provisions of this Ordinance shall apply as if the owner or occupier of the workplace were the occupier of the factory and the persons working therein were persons employed in the factory.

(5) No premises in or adjacent to and belonging to a quarry or mine, being premises in which the only process carried on is a process ancillary to the getting, dressing or preparation for sale of minerals, shall be deemed to be a factory.

(6) Where a place situate within the close, curtilage, or precincts forming a factory is solely used for some purpose other than the processes carried on in the factory, that place shall not be deemed to form part of the factory for the purposes of this Ordinance, but shall, if otherwise it would be a factory, be deemed to be a separate factory.

(7) No premises shall be deemed to be excluded from the definition of a factory by reason only that they are open air premises.

(8) Where the Executive Committee by regulations so directs as respects all or any purposes of this Ordinance, different branches or departments of work carried on in the same factory shall be deemed to be different factories.

(9) Any premises belonging to or in the occupation of the Crown or any municipal or other local or public authority shall not be deemed not to be a factory, and building operations or works of engineering construction undertaken by or on behalf of the Crown or any such authority shall not be excluded from the operation of this Ordinance, by reason only that the work carried on thereat is not carried on by way of trade or for purposes of gain.

(10) Where the only persons employed in any premises are members of the family of the occupier of those premises, those premises shall, notwithstanding anything in the preceding provisions of this section, be deemed not to be a factory for the purposes of this Ordinance.

(11) Where within the premises of any shop any work is done or any process is carried on which, under the preceding provisions of this section, constitutes those premises a factory, then, notwithstanding anything in such provisions—

- (a) the Registrar may, by order in writing, define the part or parts of those premises which shall be taken to be a factory or factories for the purposes of this Ordinance, and, upon the making of such order, no part of those premises other than a part so defined shall for the purposes of this Ordinance, be deemed to be a factory;
- (b) the Registrar may, if having regard to all the circumstances of the case he considers it expedient so to do by order in writing, declare that those premises shall not be taken to be a factory for the purposes of this Ordinance, and, upon the making of such order those premises shall not, for the purposes of this Ordinance, be deemed to be a factory.

General
interpretation.

125. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

- “appointed date” means the date appointed by the Governor by Proclamation under section 1;
- “bakehouse” means any place in which bread, biscuits or confectionery is or are baked by way of trade or for purposes of gain;
- “bodily injury” includes injury to health;
- “building operation” means the construction, structural alteration, repair or maintenance of a building (including re-painting, re-decoration and external cleaning of the structure), the demolition of a building, and the preparation for, and laying the foundation of, an intended building, but does not

- include any operation which is a work of engineering construction within the meaning of this Ordinance ;
- “calendar year” means the period of twelve months beginning with the first day of January in any year ;
- “chief inspector” means the chief inspector appointed under this Ordinance ;
- “class or description”, in relation to factories, includes a group of factories described by reference to locality ;
- “contravention” includes, in relation to any provision, a failure to comply with that provision, and the expression “contravene” shall be construed accordingly ;
- “cotton cloth factory” means any room, shed or workshop, or part thereof, in which the weaving of cotton cloth is carried on ;
- “degrees” means degrees Fahrenheit ;
- “driving-belt” includes any driving strap or rope ;
- “Executive Committee” means the Executive Committee of Labour, Industry and Commerce ;
- “fume” includes gas or vapour ;
- “general register” means the register kept in accordance with the requirements of section 91 ;
- “inspector” means, except where otherwise expressed, an inspector appointed under this Ordinance, and a reference to the inspector for the district as respects any factory is a reference to the inspector in charge of the district in which the factory is situate ;
- “machinery” includes any driving-belt ;
- “maintained” means maintained in an efficient state, in efficient working order, and in good repair ;
- “owner” means the person for the time being receiving the rent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the rent if the premises were let to a tenant ;
- “parent” means a parent or guardian of, or person having the legal custody of, or the control over, a child or young person, and includes, in relation to any child or young person, any person having direct benefit from his wages ;
- “period of employment” means the period (inclusive of the time allowed for meals and rest) within which persons may be employed on any day ;
- “prescribed” means prescribed by regulations of the Executive Committee ;
- “prime mover” means every engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source ;
- “process” includes the use of any locomotive ;
- “railway” means any railway used for the purposes of public traffic whether passenger, goods, or other traffic and includes any works of the railway authority connected with the railway ;
- “sanitary conveniences” includes urinals, water-closets, earth-closets, privies, ashpits, and any similar convenience ;
- “ship”, “vessel”, and “harbour” have the same meaning as in the Merchant Shipping Ordinance ;
- “shop” has the same meaning as in the Shops Ordinance, No. 66 of 1938 ;
- “tramway” means a tramway authorised by or under any law and used for the purpose of public traffic ;
- “transmission machinery” means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance ;
- “week” means the period between midnight of any Saturday and midnight of the next succeeding Saturday ;

“ woman ” means a female who has attained the age of eighteen ;

“ work of engineering construction ” means the construction of any railway line or siding and the construction, structural alteration or repair (including re-pointing and re-painting) or the demolition of any dock, harbour, inland navigation, tunnel, bridge, viaduct, waterworks, reservoir, pipe-line, aqueduct, sewer, sewage works, or gasholder, and shall include such other works as may be specified by regulations of the Executive Committee ;

“ young person ” means a person who has attained the age of fourteen and has not attained the age of eighteen.

(2) For the purposes of this Ordinance, machinery or plant shall be deemed to have been constructed or reconstructed before the appointed date or the making of regulations under this Ordinance, and a factory or building shall be deemed to have been constructed, reconstructed, extended, added to, or converted for use as a factory, before the appointed date or the coming into operation of any provision of this Ordinance, if the construction, reconstruction, extension, addition, or conversion was begun before the appointed date, or the making of regulations under this Ordinance, or the coming into operation of any provision of the Ordinance, as the case may be.

(3) For the purposes of this Ordinance, a factory shall not be deemed to be a factory in which mechanical power is used by reason only that mechanical power is used for the purpose of heating, ventilating or lighting the workrooms or other parts of the factory.

(4) A woman, young person, or child who works in a factory, whether for wages or not, either in a process or in cleaning any part of the factory used for any process, or in cleaning or oiling any part of the machinery or plant, or in any other kind of work whatsoever incidental to or connected with the process, or connected with the article made or otherwise the subject of the process therein, shall, save as is otherwise provided by this Ordinance, be deemed to be employed therein for the purposes of this Ordinance or of any proceedings thereunder :

Provided that any woman employed solely in cleaning a factory or any part thereof, otherwise than in cleaning which is incidental to or connected with any process, shall not be deemed for the purposes of Part VII. to be employed in the factory.

(5) For the purposes of this Ordinance, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.

(6) For the purposes of this Ordinance, an apprentice shall be deemed to be a person employed.

(7) References in this Ordinance to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

Application of Ordinance to young persons employed in factories in certain occupations.

126. A young person who works in a factory, whether for wages or not, in collecting, carrying or delivering goods, carrying messages or running errands shall be deemed to be employed in the factory for the purposes of this Ordinance or of any proceedings thereunder :

Provided that the provisions of Part VII. shall not apply, except as expressly provided, to any such young person who is employed mainly outside the factory.

General.

Inspection of certain premises.

127. Where in any premises which are subject to inspection by or under the authority of any Government department any manual labour is exercised, otherwise than for the purposes of instruction, in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of any article, and the premises do not constitute a factory, the Registrar may arrange with the department that the premises shall, as respects the matters dealt with by this Ordinance, be inspected by an inspector appointed under this Ordinance, and where such an arrangement is made, such inspectors shall have, as respects such matters as aforesaid, the like right of entry and inspection as is conferred on inspectors or other officers of the department concerned.

Expenses of Registrar.

128. The expenses of the Registrar in carrying this Ordinance into effect shall be defrayed out of the general revenue.

129. With effect from the appointed date the provisions of the Mines and Machinery Ordinance shall cease to apply to any factory within the meaning of this Ordinance :

Provided, however, that all rules made under that Ordinance which relate to factories and are in force on the day immediately preceding the appointed date shall, so far as they are not inconsistent with the provisions of this Ordinance and so far as they may be necessary for the purpose of supplementing those provisions, continue in force as if they were regulations made under this Ordinance, until they are repealed or replaced by regulations made under this Ordinance.

Passed in Council the First day of October, One thousand Nine hundred and Forty-two.

D. C. R. GUNAWARDANA,
Clerk of the Council.

Assented to by His Excellency the Governor the Nineteenth day of October, One thousand Nine hundred and Forty-two.

C. H. HARTWELL,
Secretary to the Governor.

Mines and
Machinery
Ordinance to
cease to apply
to factories.
Cap.163.

Ordinance enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof.

No. 47 of 1942.

L. D.—O 33/42.—M. L. A.—EB. 384

An Ordinance to provide for the introduction of a system of exclusive road service licences for omnibuses and for the regulation and control of the use of omnibuses on highways, and to effect consequential amendments in the Motor Car Ordinance, No. 45 of 1938.

A. CALDECOTT.

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 Omnibus Service Licensing Ordinance, No. 47 of 1942.

Short title.

2. (1) No omnibus shall, on or after the first day of January, nineteen hundred and forty-three, be used on any highway for the conveyance of passengers for fee or reward, except under the authority of a road service licence issued by the Commissioner of Motor Transport under this Ordinance.

Licences
required to
authorise the
provision of
road services by
omnibuses and
motor cabs.

(2) Nothing in sub-section (1) shall be deemed to prevent the issue under this Ordinance of a road service licence expressed to come into force before the first day of January, nineteen hundred and forty-three; and where a notice, stating that a licence has been so issued and specifying the routes on which a service is to be provided thereunder, has been published in the *Gazette* by the Commissioner, no omnibus shall be used, on any highway included in any such route, for the conveyance of passengers for fee or reward except under the authority of that licence.

(3) No motor cab shall, on or after the first day of January nineteen hundred and forty-three, be used on any highway for the conveyance of passengers for fee or reward at separate fares, except under the authority of a road service licence issued by the Commissioner under this Ordinance.

(4) For the purposes of this section an omnibus or a motor cab shall not be deemed to be used under the authority of any road service licence unless it is used by the holder of the licence and in accordance with the provisions of and the conditions attached to that licence.

3. (1) Every application for a road service licence shall be made to the Commissioner in such form as the Commissioner may provide for the purpose, and shall contain—

Application
for licence.

- (a) particulars of the route or routes on which it is proposed to provide the service;
- (b) particulars of the type or types of the omnibuses to be used for the purposes of the service;
- (c) in the case of a licence for a regular service, the time-table and fare-table of the proposed service;
- (d) in the case of a licence for a service other than a regular service, particulars of the area in which and of the festivals, fairs, excursions, tours or other special purposes for which a service is to be provided, and such particulars as the Commissioner may require relating to the frequency of the proposed service and the time to be taken on the journeys included in the proposed service;

(e) such particulars as the Commissioner may require as to the wages and conditions of employment of the persons employed or proposed to be employed for the purposes of the service ;

(f) such other particulars as the Commissioner may require for the purposes of this Ordinance.

(2) Every applicant for a road service licence shall furnish to the Commissioner such information relating to the business proposed to be carried on under the licence as the Commissioner may require for the purposes of this Ordinance.

Matters to be considered by Commissioner.

4. In deciding whether an application for a road service licence should be granted or refused, in approving under section 5 the route or routes in respect of which any such licence should be issued, and in exercising his discretion as to the conditions to be attached under section 6 to any such licence, the Commissioner shall—

(a) have regard to the following matters :—

(i) the suitability of the route or routes on which it is proposed to provide a service under the licence ;

(ii) the extent, if any, to which the needs of the proposed route or routes or of any such route are already adequately served ;

(iii) the needs of the area as a whole in relation to traffic (including the provision of adequate, suitable and efficient services and the provision of unremunerative services) and the co-ordination of all forms of passenger transport ;

(iv) the financial position of the applicant, in so far as it may affect the efficient operation of the proposed service ;

(v) the question whether any provision of any other written law prescribing a speed limit is likely to be contravened ;

(vi) such other matters as the Commissioner may deem relevant ; and

(b) take into consideration any such representations as may be made to him by persons who are already providing transport facilities along or near to the proposed route or routes or any part thereof, or by any local authority within the administrative limits of which any proposed route or part thereof is situate :

Provided, however, that the Commissioner shall not, on the ground of any representations made to him under paragraph (b), make any decision refusing any application for a road service licence or attaching any condition to any licence, except after notice to the applicant and consideration of any such matters as may, before a date to be specified in the notice, be urged by the applicant in support of his application.

Approval of routes.

5. (1) In any case where the Commissioner decides to grant any application for a road service licence for a regular service, he shall specify in the licence the route or routes on which the service is to be provided under the licence, and may for such purpose approve, subject to such modifications or variations as he may consider necessary, the route or routes or any one or more of the routes proposed by the applicant.

(2) In any case where the Commissioner decides to grant an application for a road service licence for a service other than a regular service, he may specify in the licence the area in which, the routes on which, and the festivals, fairs, excursions, tours or other special purposes for which, a service may be provided, and may for such purpose approve, subject to such modifications or variations as he may consider necessary, the area or any part of the area, the routes or any of the routes, and the purposes or any one or more of the purposes, specified in the application for the licence.

Conditions of licence.

6. (1) Subject to the provisions of this Ordinance and of any regulations which may be made in that behalf, the Commissioner may attach to any road service licence all such conditions as he may think fit with respect to the matters mentioned in section 4 and generally for securing the safety and convenience of the public, including conditions requiring—

(a) that the fares to be charged shall be such as may be specified in the licence ;

(b) that the service shall be operated in accordance with a time-table specified in the licence ;

(c) that copies of the time-table and fare-table shall be carried and kept exhibited in omnibuses used on the service ;

- (d) that every omnibus used on the service shall be of a specified type and be maintained at all times in a fit and serviceable condition ;
- (e) in a case where licences are issued to different persons in respect of the same section of a highway, or where any route or part thereof lies within the administrative limits of any local authority, that passengers shall not be taken up or shall not be set down (i) except at specified points or (ii) between specified points ;
- (f) that the hours of work of the persons employed for the purposes of the service, and the wages paid to such persons, shall be in accordance with the provisions of any written law for the time being in force prescribing the hours of work or the wages of such persons ;
- (g) that the speed-limits prescribed by any written law and applicable in the case of omnibuses shall be observed in the operation of the service ;
- (h) that mails or newspapers shall be carried to such places and at such times as the Commissioner may specify, if payment for such carriage is made in accordance with rates approved by the Commissioner, and in the case of mails, that they shall be carried in accordance with terms and arrangements approved by the Commissioner and embodied in a contract between the applicant and the Postmaster-General.

(2) The Commissioner may at any time, by notice served on the holder of a road service licence, vary the conditions attached to a road service licence, and require the production of the licence for the purpose of such variation.

(3) Every road service licence issued to a company shall be subject to the condition that the licence will be revoked if at least eighty-five per centum of the share capital of the company is not held by persons who are Ceylonese.

No appeal shall lie against the insertion of the aforesaid condition in any road service licence issued to a company ; and nothing in the first Proviso to section 12 (1) shall apply in any case where the licence is revoked on the ground that that condition has not been observed.

In this sub-section, " Ceylonese " means a person domiciled in Ceylon and possessing a Ceylon domicile of origin.

7. (1) The issue of road service licences under this Ordinance shall be so regulated by the Commissioner as to secure that different persons are not authorised to provide regular omnibus services on the same section of any highway :

Road service licences to be usually exclusive.

Provided, however, that the Commissioner may, where he considers it necessary so to do having regard to the needs and convenience of the public, issue licences to two or more persons authorising the provision of regular omnibus services involving the use of the same section of a highway, if, but only if—

- (a) that section of the highway is common to the respective routes to be used for the purposes of the services to be provided under each of the licences, but does not constitute the whole or the major part of any such route ; and
- (b) the principal purpose for which each such licence is being issued is to authorise the provision of a service substantially different from the services to be provided under the other licence or licences.

(2) Where the Commissioner is satisfied that any company engaged in the publication of any newspaper had, immediately prior to the first day of September, 1942, operated an omnibus service on any route for the purposes of the carriage and distribution of newspapers the Commissioner may, notwithstanding anything contained in sub-section (1), issue a road service licence authorising that company to provide on that route such an omnibus service as will enable newspapers published by the company to be carried and distributed.

8. The Commissioner shall cause a notice of the refusal of any application for a road service licence to be served on the applicant for that licence ; and in any case where there have been two or more applications for the issue for the first time under this Ordinance of licences in respect of the same route or of routes which are substantially the same, the Commissioner shall specify in the notice of refusal of any such application, the name of the applicant to whom the licence is being issued.

Notice of refusal.

9. (1) No road service licence shall be issued to any person except upon payment of a fee determined at the rate of one rupee for each month in the period for which the licence is to be in force, any incomplete part of a month being reckoned as a month.

Fee for licence.

(2) All fees due under this Ordinance shall be paid by means of revenue stamps to be cancelled by or by order of the Commissioner, and shall be credited to general revenue.

Duration and effect of licences.

10. Every road service licence issued under this Ordinance shall be in force for such period, not exceeding two years, as may be specified by the Commissioner in the licence, and shall authorise the holder thereof to operate an omnibus service on the route or routes specified in the licence in accordance with the conditions attached thereto :

Provided that where, before the expiration of a licence, the holder makes application to the Commissioner for a new licence authorising him to provide a service substantially the same as that provided under the existing licence, the existing licence shall continue in force until such time as the application is finally determined by the Commissioner or by a Tribunal of Appeal, as the case may be, but so, however, that a fee determined in accordance with the provisions of section 9 shall be payable by the holder of the existing licence in respect of the period during which that licence continues in force as hereinbefore provided.

Provisions applicable to holders of licences.

11. (1) The holder of a road service licence—

- (a) shall not transfer or assign the licence to any other person ;
- (b) shall not cease to operate any service authorised to be provided under the licence except after notice to and with the consent of the Commissioner ;
- (c) shall, if he ceases to operate any service authorised to be provided under the licence, forthwith transmit the licence to the Commissioner for cancellation or alteration.

(2) In the event of the death of an individual who is the holder of a road service licence, the person having the custody of the omnibus, or the majority of the omnibuses, used for the purposes of the service shall forthwith give notice of the death to the Commissioner ; and if that person, within fourteen days of the death of the individual, makes application to the Commissioner for a new licence in substitution for the existing licence, that person shall be deemed for the purposes of this Ordinance to be the holder of the existing licence during the period commencing on the date of the death and ending on the date of the grant or refusal of the application :

Provided, however, that no licence shall by reason of the preceding provisions of this sub-section be deemed to be in force at any time after the period for which the licence was issued.

Power to suspend or revoke licence.

12. (1) The Commissioner may, by order in writing under his hand, revoke or suspend a road service licence issued to any person if any condition attached to that licence, or to any other road service licence of which that person is or was the holder, has been contravened or has not been complied with, and the Commissioner shall revoke any licence issued to a company if the condition imposed by section 6 (3) is not observed in the case of that company :

Provided, however, that no such licence shall be revoked or suspended unless the Commissioner is of opinion that such revocation or suspension is necessary owing to the repetition of the breach of conditions, or to the breach having been committed wilfully, or to the danger to the public involved in the breach :

Provided further that no order of revocation or suspension shall be made by the Commissioner except after notice to the holder of the licence and consideration of any such representations as may, before a date specified in the notice, be made by the holder, whether in writing or in person or by representative, against the making of the order.

(2) Every order under sub-section (1) shall be served on the holder of the licence in respect of which the order is made.

(3) The Commissioner shall, in every order under sub-section (1) suspending any licence, specify the period for which that licence shall be suspended.

(4) Where any road service licence issued to any person in respect of any route has been suspended for any period under this section or section 14 (5), the licence shall be of no effect during that period ; and it shall be lawful for the Commissioner to issue a temporary road service licence to any other person in respect of that route or of any part thereof. Any such temporary licence shall cease to be in force upon the expiry of the period of the suspension of the licence in the place of which it is issued.

(5) The provisions of this section, conferring on the Commissioner the power to revoke or suspend a licence in any case, shall not affect or prejudice the institution or maintenance in that case of a prosecution for any offence under this Ordinance or any other written law.

13. (1) In any case where there have been two or more applications for the issue for the first time under this Ordinance of a licence or licences in respect of the same route or of routes which are substantially the same, any person whose application has been refused may, before the expiry of a period of ten days from the date of the service on him of notice of such refusal, appeal against the decision of the Commissioner to a Tribunal of Appeal.

Appeals
against
decisions of the
Commissioner.

(2) In any case where the holder of a road service licence is aggrieved by the decision of the Commissioner refusing an application for the renewal of the licence, the applicant may, before the expiry of a period of ten days from the date of the service on him of notice of such refusal, appeal against the decision of the Commissioner to a Tribunal of Appeal.

(3) In any case where an application has been made for a road service licence in respect of a route or routes on which a service is not already provided under any other licence, the applicant, if he is aggrieved by the decision of the Commissioner refusing the application may, before the expiry of a period of ten days from the date of the service on him of notice of such refusal, appeal against the decision of the Commissioner to a Tribunal of Appeal.

(4) Any applicant for a road service licence, or the holder of any such licence, who is aggrieved by the decision of the Commissioner to attach any condition to the licence or to vary the conditions of the licence may, before the expiry of a period of ten days from the date of the receipt by him of the licence or of the notice of such variation, as the case may be, appeal against the decision of the Commissioner to a Tribunal of Appeal.

(5) The holder of a road service licence, if he is aggrieved by an order of the Commissioner revoking or suspending the licence may, before the expiry of a period of ten days from the date of the service on him of the order, appeal against the order of the Commissioner to a Tribunal of Appeal.

(6) In any case where any company referred to in sub-section (2) of section 7 is aggrieved by the decision of the Commissioner refusing an application by the company for a road service licence for the issue of which provision is made in that sub-section, the company may, before the expiry of a period of ten days from the date of the service on it of notice of such refusal, appeal against the decision of the Commissioner to a Tribunal of Appeal.

(7) In any case where the Postmaster-General or any company engaged in the publication of any newspaper is dissatisfied with any condition attached to any licence under section 6 (1) (b) in relation to the carriage of mails or of newspapers published by that company, as the case may be, the Postmaster-General or the company may, before the expiry of a period of ten days from the date of the service on him or the company of a copy of the condition, appeal against the decision of the Commissioner to a Tribunal of Appeal.

(8) The provisions of section 4 of the Motor Car Ordinance, No. 45 of 1938, and the regulations made thereunder shall, subject to such modifications or variations as may be prescribed by regulations under this Ordinance, apply in the case of appeals under this section in like manner as they apply in the case of appeals preferred under that Ordinance:

Provided, however, that for the purposes of the application of the provisions of sub-section (6) of the aforesaid section 4 in the case of any appeal under this section, those provisions shall have effect as though for every reference therein to a question of law, there were substituted a reference to a question whether of law or of fact.

14. (1) A Tribunal of Appeal may in the case of an appeal under section 13 (1) by an applicant for a licence—

Powers of
Tribunals
on appeals.

(a) make order confirming the decision of the Commissioner ;
or

(b) make order that a licence shall be issued to the applicant and that the licence, if any, issued to any other applicant in respect of the same route or of a route which is substantially the same shall be revoked with effect from a date specified in the order.

(2) A Tribunal of Appeal may, in the case of an appeal under section 13 (2) or section 13 (3) or section 13 (6) by the holder of or an applicant for a road service licence—

(a) make order confirming the decision of the Commissioner ;
or

(b) make order that a licence should be issued to the applicant.

(3) In any case where a Tribunal of Appeal makes order under the preceding provisions of this section that a licence shall be issued to any applicant, the Tribunal shall determine

the route or routes on which a service is to be provided under the licence and the conditions to be attached thereto and shall for the purposes of such determination have regard to the provisions of sections 4 to 7 of this Ordinance.

(4) A Tribunal of Appeal may, in the case of an appeal against the decision of the Commissioner to attach any condition to any road service licence or to vary the conditions of any such licence—

(a) make order confirming the decision of the Commissioner; or

(b) make order that any condition shall be deleted, or altered in any such manner as may be specified in the order.

(5) A Tribunal of Appeal may, in the case of an appeal against any order made by the Commissioner revoking or suspending any road service licence—

(a) make order confirming or revoking the order of the Commissioner; or

(b) in any case where a licence has been revoked by the Commissioner, make order that the licence shall, instead of being revoked, be suspended during a specified period.

Offences and penalties.

15. (1) Any person who uses any omnibus, or causes or permits any omnibus to be used, in contravention of any provision of this Ordinance, or who, being the holder of a road service licence, contravenes or fails to comply with any condition attached to that licence, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding two hundred and fifty rupees, and on a second or a subsequent conviction to a fine not exceeding five hundred rupees or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(2) Where any omnibus is used in contravention of any provision of this Ordinance, the person driving the omnibus at the time of such contravention and the owner of the omnibus shall each be guilty of an offence:

Provided, however, that the owner, if he is not present in the omnibus at the time of the contravention, shall not be deemed to be guilty of an offence in any such case if he proves to the satisfaction of the court that the contravention was committed without his knowledge or that he had used due diligence to prevent such contravention.

(3) Where the person convicted of an offence under this Ordinance is a body corporate or a partnership, every director or officer of the body corporate, or every member of the partnership, as the case may be, shall each be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he had used due diligence to prevent the Commission of the offence.

Regulations.

16. (1) The Executive Committee of Local Administration may make regulations for all matters for which regulations are required or authorised to be made under this Ordinance, all matters stated or required by this Ordinance to be prescribed, and generally for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) No regulation made by the Executive Committee under this section shall have effect until it has been approved by the State Council and ratified by the Governor and notification of such approval and ratification is published in the *Gazette*. Every regulation shall, upon the Notification of such approval and ratification in the *Gazette*, be as valid and effectual as if it were herein enacted.

Service of notices, &c.

17. Any notice, order or document required or authorised by or under this Ordinance to be served on or sent to any person who is an applicant for or the holder of a road service licence, may be sent through the post by registered letter addressed to that person at the address specified in his application for the licence or at such address, if any, as may be subsequently notified by that person in writing to the Commissioner; and every such notice, order or document shall be deemed to have been served or received at the time at which it would have been received in the ordinary course of post.

Special provisions applicable in relation to first issue of road service licences.

18. (1) The provisions set out in the First Schedule to this Ordinance shall apply in relation to the consideration by the Commissioner of applications for road service licences to come into force on or before January 1, 1943, in relation to the issue of any such licence, and in relation to the registration under the Motor Car Ordinance, No. 45 of 1938, prior to January 1, 1943, of new owners of omnibuses.

(2) The Minister for Local Administration may, by Order published in the *Gazette*, amend the First Schedule to this Ordinance in such manner as may in his opinion be necessary

or expedient for the purpose of providing for any unforeseen or special circumstances, or of resolving any matter of doubt or difficulty, which may arise in connexion with the first issue of road service licences under this Ordinance, and without prejudice to the generality of the powers hereinbefore conferred, any such Order may provide for the insertion in that Schedule of provisions—

- (a) specifying the matters to be taken into consideration by a Tribunal of Appeal in determining the amount of compensation to be paid by applicants who have entered into the undertakings referred to in paragraph 2 (c) of that Schedule, including the value of any transferred omnibus and the profits arising from any business carried on by the owner of an omnibus prior to the commencement of this Ordinance;
- (b) declaring that any regulations made under section 4 (5) of the Motor Car Ordinance, No. 45 of 1938, shall, in their application in cases brought before a Tribunal of Appeal under paragraph 3 of that Schedule, have effect subject to such amendments, modifications or additions, as may be specified in the Order;
- (c) temporarily suspending the operation of any provision of the Motor Car Ordinance, No. 45 of 1938, in so far as it relates to the registration of a new owner of an omnibus or to the licensing of omnibuses;
- (d) enabling the Commissioner, notwithstanding anything in section 2 of this Ordinance, by means of a notification published in the *Gazette* or of temporary permits, to authorise the use of omnibuses for the conveyance of passengers for fee or reward on or after January 1, 1943, in cases where delay or difficulty has occurred in regard to the issue of road service licences under this Ordinance; or
- (e) declaring that the provisions in that Schedule (as amended by any Order under this section) shall continue to apply until such date after January 1, 1943, as may be specified in the Order.

(3) Every Order made under sub-section (2) shall be submitted to the Governor for approval; and upon publication in the *Gazette* of any Order so approved, the Order shall have the force of law and be valid and effectual as though it were herein enacted.

19. (1) The provisions of sections 3 to 17 of this Ordinance shall have effect in relation to road service licences for motor cabs used for the conveyance of passengers for fee or reward at separate fares and to the use of such motor cabs on highways in like manner as they apply in relation to road service licences for omnibuses and to the use of omnibuses for the conveyance of passengers for fee or reward; and for the purposes of such application—

- (a) every reference in any of the aforesaid provisions of this Ordinance to an omnibus shall be deemed to include a reference to a motor cab used for the conveyance of passengers at separate fares; and
- (b) every reference in any of those provisions to an omnibus service shall be deemed to include a reference to a service provided by such motor cabs.

(2) For the purposes of this Ordinance, where persons are carried in a motor cab for any journey in consideration of separate payments made by them, whether to the owner or to any other person, the motor cab shall be deemed to be a motor cab carrying passengers for fee or reward at separate fares, whether the payments are solely in respect of the journey or not.

20. The Commissioner shall, in the exercise or discharge of the powers or functions conferred on him by or under this Ordinance, be subject to the general direction and control of the Executive Committee.

21. Nothing in this Ordinance shall be deemed to prejudice or affect the operation of any provision of the Motor Car Ordinance, No. 45 of 1938, prohibiting the possession or use of an omnibus or a motor cab for which a licence under that Ordinance is not in force.

22. The Motor Car Ordinance, No. 45 of 1938, is hereby amended in the manner and to the extent specified in the Second Schedule to this Ordinance:

Provided, however, that the amendments of sections 107, 116, 117, 118 and 125 of that Ordinance shall not take effect until the first day of January, 1943.

23. This Ordinance shall be read and construed as one with the Motor Car Ordinance, No. 45 of 1938, as amended by the provisions of section 22 of this Ordinance.

Application of
Ordinance to
Motor cabs.

Commissioner to
act subject to
direction and
control of
Executive
Committee

Savings for
requirements
of Ordinance
No. 45 of 1938
as to licences.

Amendments of
Ordinance
No. 45 of 1938.

Construction of
Ordinance.

FIRST SCHEDULE.

(Section 18)

(Special provisions applicable to issue of licences, &c., before January 1, 1943).

1. In the event of applications being made by two or more persons for road service licences to come into force on or before January 1, 1943, in respect of the same route or of routes which are substantially the same, the Commissioner shall, subject to the provisions of section 4 of the Ordinance, observe the following order of preference in deciding which application should be granted:—

- (i) *Firstly*, an application from a company or partnership comprising the holders of all the licences for the time being in force under the Motor Car Ordinance, No. 45 of 1938, authorising the use of omnibuses on such route or on a route substantially the same as such route, or from a company or partnership which, or an individual who, has acquired the interests of the holders of all such licences.
- (ii) *Secondly*, an application from a company or partnership comprising the holders of the majority of the licences referred to in sub-paragraph (i), or from a company or partnership which, or an individual who, has acquired the interests of the majority of the holders of such licences.
- (iii) *Thirdly*, an application from a partnership comprising the holders of two or more of the licences referred to in sub-paragraph (i), or from a company or partnership which, or an individual who, has acquired the interests of the holders of two or more of such licences.
- (iv) *Fourthly*, an application from a company or partnership which, or an individual who, is for the time being the holder of at least one of the licences referred to in sub-paragraph (i).
- (v) *Fifthly*, an application from an individual who for the time being holds, or from a company or partnership comprising persons who for the time being hold, licences under the Motor Car Ordinance, No. 45 of 1938, authorising the use of omnibuses on routes other than the route in respect of which the application is made.
- (vi) *Sixthly*, an application not falling within any of the preceding sub-paragraphs, being an application from a Ceylonese, or from a partnership of which all the members are Ceylonese, or from a company incorporated or deemed to be incorporated under any written law in force in Ceylon.

In this paragraph, "Ceylonese" means a person domiciled in Ceylon and possessing a Ceylon domicile of origin.

2. Notwithstanding anything in paragraph 1 of this Schedule, no road service licence to come into force on or before January 1, 1943, shall be issued in respect of any route upon any application (other than an application falling within sub-paragraph (i) of the aforesaid paragraph (1) unless the Commissioner is satisfied—

- (a) that the applicant has paid compensation to every person who, being for the time being the holder of a licence under the Motor Car Ordinance, No. 45 of 1938, authorising the use of an omnibus on that route or on a route which is substantially the same as that route, has no pecuniary interest or share in the business proposed to be carried on by the applicant under the road service licence; or
- (b) that every person referred to in sub-paragraph (a) has given his written consent to the issue of the road service licence to the applicant; or
- (c) that the applicant has entered into a written undertaking by which he agrees to pay as compensation to every person referred to in sub-paragraph (a), to whom he has not already paid compensation or who has not consented to the issue of the licence to the applicant, such amount as may be determined by a Tribunal of Appeal constituted under the Motor Car Ordinance, No. 45 of 1938.

3. In any case where an applicant for a road service licence has entered into a written undertaking referred to in paragraph 2 by which he agrees to pay as compensation to any person such amount as may be fixed by a Tribunal of Appeal, and the licence is issued to the applicant, a Tribunal may, on application made in that behalf by that person and after such inquiry as it may deem necessary, make order determining the amount to be paid by the applicant as compensation to that person.

4. The provisions of section 4 of the Motor Car Ordinance, No. 45 of 1938, and of the regulations made under that section shall, subject to any Order made under section 18 (2) of this Ordinance, apply in the case of applications made to a Tribunal of Appeal under paragraph 3 of this Schedule in like manner as they apply in the case of appeals to a Tribunal of Appeal; and for the purposes of any such case, any reference in any of those provisions to an appeal shall be deemed to include a reference to an application under the aforesaid paragraph 3:

Provided, however, that nothing in sub-section (6) of the aforesaid section 4 shall apply in the case of any such application.

5. The Commissioner shall cause a copy of every order made by a Tribunal of Appeal under paragraph 3 of this Schedule to be served on the applicant for the licence to whom the order relates (hereinafter referred to as "the debtor"), and on the person or each of the persons who is entitled to compensation under the order.

6. (1) Any debtor or any other person who is dissatisfied with an order of a Tribunal of Appeal under paragraph 3 determining the amount of compensation to be paid by him or to him may, within one month of the date of the service on him of the copy of the order, institute an action in the District Court of the district in which the debtor resides or carries on business praying that the amount of the compensation to be paid shall be fixed by the court.

(2) Such District Court shall hear and determine such action according to the procedure prescribed by the provisions of written law regulating the hearing and determination of actions in such court, and any order or decree made or entered by such court in any such action may be enforced or executed in the same manner as an order or decree for the payment of money made or entered by that court in the exercise of its ordinary jurisdiction.

(3) No appeal from, or application for the revision of, any decree entered by a District Court in any action instituted under this paragraph shall lie to the Supreme Court.

7. (1) In any case where no action is instituted under paragraph 6 of the Schedule praying that the amount of compensation to be paid by any debtor to any person shall be fixed by the court, that person may, if payment is not made to him by the debtor in accordance with the order made by the Tribunal of Appeal in that case, apply to the District Court of the district in which the debtor resides or carries on business that a copy of the order of the Tribunal of Appeal certified by the Commissioner shall be filed in court and that a decree be entered in his favour in terms of the order.

The application shall be by petition in the way of summary procedure under Chapter XXIV of the Civil Procedure Code, and the debtor shall be named respondent, and the petitioner shall aver in the petition that the debtor has failed to comply with the terms of the order.

Cap. 86.

(2) If the District Court is satisfied, after such inquiry as it may deem necessary, that the petitioner is *prima facie* entitled to the decree in his favour, the court shall enter a decree *nisi* in the petitioner's favour in terms of the order. The court shall also appoint a date, notice of which shall be served on the debtor, on or before which the debtor may show cause as hereinafter provided against the decree *nisi* being made absolute.

(3) If, on or before the date appointed by the court under sub-paragraph (2), the debtor fails to prove to the satisfaction of the court that there has been no default on his part in complying with the terms of the order of the Tribunal of Appeal, the decree *nisi* entered under that sub-paragraph shall by order of the court be made absolute.

(4) Any decree which has been made absolute under sub-paragraph (3) may be executed as if it were a decree entered in a civil action, and the court may award to the petitioner the costs of his application and of the execution of the decree, and the provisions of the Stamp Ordinance and of the Civil Procedure Code shall apply accordingly:

Cap. 189.
Cap. 86.

Provided, however, that no appeal from, or application for the revision of, any such decree shall lie to the Supreme Court.

8. Such of the provisions of section 20 of the Motor Car Ordinance, No. 45 of 1938, as require the payment of a fee as a condition precedent to the registration of the new owner of a motor car shall not apply in any case where the Commissioner is satisfied that an omnibus has at any time prior to January 1, 1943, been transferred with a view to securing the formation of a company or partnership for the purpose of operating an omnibus service under a road service licence or with a view to enabling any individual to operate such a service.

SECOND SCHEDULE.

Amendments of the Motor Car Ordinance, No. 45 of 1938.

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
1. 18	(1) In sub-section (2), the words "an omnibus or" shall be omitted. (2) In sub-section (2A)— (a) for the words "possession of an omnibus or lorry", substitute the words "possession of a lorry"; (b) the words "omnibus or" wherever those words occur collectively in any of the paragraphs of that sub-section, shall be omitted.
2. 20	In sub-section (3)— (a) for the words "new owner of an omnibus or lorry," substitute the words "new owner of a lorry"; (b) in paragraph (b), the words "omnibus or" shall be omitted.

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
3. 29	<p>In sub-section (6)—</p> <p>(a) for the words "an omnibus or lorry," substitute the words "a lorry,";</p> <p>(b) for the words "the omnibus or lorry," substitute the words "the lorry,".</p>
4. 31	<p>(1) In paragraph (iv) of the Proviso to sub-section (1), for the words "an omnibus or lorry," substitute the words "a lorry,".</p> <p>(2) In sub-section (2), the words "an omnibus or" shall be omitted.</p>
5. 43	<p>(1) In sub-section (1), for the words "an omnibus or lorry," substitute the words "a lorry,".</p> <p>(2) Sub-section (2) shall be repealed.</p> <p>(3) In sub-section (5), the words "omnibus or", wherever those words occur collectively therein, shall be omitted.</p> <p>(4) In the marginal note, the words "omnibus or" shall be omitted.</p>
6. 44	<p>(1) For sub-section (1), substitute the following:—</p> <p>"(1) Every applicant for a licence for a lorry shall produce the lorry for examination by an examiner on such date and at such time and place as may be specified in a notice addressed to the applicant by the licensing authority, and shall pay the prescribed fee for such examination."</p> <p>(2) In sub-section (2), the words "omnibus or", wherever they occur collectively therein, shall be omitted.</p> <p>(3) In the marginal note, the words "omnibuses and" shall be omitted.</p>
7. 45	<p>(1) In paragraph (a) of sub-section (1), the words "an omnibus or" shall be omitted.</p>
8. 46	<p>(2) Sub-section (2) shall be repealed.</p> <p>(1) In sub-section (1)—</p> <p>(a) in paragraph (a), the words "for omnibuses or" shall be omitted.</p> <p>(b) in paragraph (b), for the words "an omnibus or lorry", substitute the words "a lorry,".</p> <p>(2) In sub-section (2)—</p> <p>(a) in paragraph (a), the words "any part of any route proposed by any applicant for a licence for an omnibus, or" shall be omitted;</p> <p>(b) for paragraph (b), substitute the following:—</p> <p>"(b) Any person who is the holder of a valid licence, or who is himself an applicant for a licence, for a lorry in respect of the whole or any part of the area of operation which is proposed by any other applicant for a licence may, on payment of the prescribed fee, make objection against the issue of the licence to such other person."</p>
9. 47	<p>In sub-section (1)—</p> <p>(a) the words "an omnibus or" shall be omitted;</p> <p>(b) paragraph (d) shall be omitted.</p>
10. 48	<p>Sub-section (1) shall be repealed.</p>
11. 49	<p>(1) The words "an omnibus or", wherever those words occur collectively in this section, shall be omitted.</p> <p>(2) In paragraph (c) of sub-section (2), all the words from "any part of" to "as the case may be," shall be omitted.</p>
12. 50	<p>In Sub-section (1), the words "an omnibus or" shall be omitted.</p>
13. 51	<p>(1) In sub-section (1)—</p> <p>(a) the words "an omnibus or" shall be omitted;</p> <p>(b) for all the words from "and shall," in paragraph (b) to the end of that paragraph, substitute the words "and shall approve the proposed area of operation or any part thereof, and all or any one or more of the proposed additional services."</p> <p>(2) In sub-section (2)—</p> <p>(a) the words "an omnibus or" shall be omitted;</p> <p>(b) for all the words from "the licence should" to "in the case of a lorry," in paragraph (a) (iii), substitute the words "the licence should";</p>

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
	(c) for all the words from "the licence should" to "in the case of a lorry," in paragraph (b) (ii), substitute the words "the licence should".
14. 52	(1) The words "an omnibus or" shall be omitted.
	(2) For all the words from "the Commissioner shall specify" to "the area of operation", substitute the words "the Commissioner shall specify the area of operation".
15. 53	(1) For the words "an omnibus or a lorry" wherever those words occur collectively in this section, substitute the words "a lorry".
	(2) For the words "the omnibus or lorry" wherever those words occur collectively in this section, substitute the words "the lorry".
	(3) In paragraph (a) of sub-section (2), for the words "that omnibus or lorry", substitute the words "that lorry".
16. 54	(4) In paragraph (c) of sub-section (2), the words "as the case may be" shall be omitted.
	(1) Sub-section (1) shall be repealed.
17. 55	(2) In the marginal note the words "routes or" shall be omitted.
	(1) Paragraph (a) of sub-section (1) shall be omitted.
18. 55A	(2) In the marginal note, the words "approved routes and" shall be omitted.
	(1) Sub-section (1) shall be repealed.
	(2) Substitute, for the marginal note, the following :—
19. 56	"Exchange of areas of operation of lorries in the same ownership".
20. 57	Section 56 shall be repealed.
21. 58	Section 57 shall be repealed.
22. 58A	Section 58 shall be repealed.
	(1) Sub-section (1) shall be repealed.
	(2) For sub-sections (3) to (6), substitute the following sub-sections :—
	(3) In any case where application for a licence for a new lorry is made under this section in consequence of the voluntary transfer of the lorry, the Commissioner shall not direct the licensing authority to issue the licence unless the statement forwarded to the Commissioner under section 18 (2A) contains a declaration to the effect that application will be made for a licence for a new lorry under this section.
	(4) (a) The provisions of section 44 and of paragraphs (a) to (d) set out in section 53 (2) shall apply in any case where the Commissioner directs a licensing authority under this section to issue a licence for a new lorry, and for the purposes of such application the direction of the Commissioner under this section shall be deemed to be a decision or order communicated under section 52.
	(b) No licence for a new lorry shall be issued under this section by any licensing authority—
	(i) unless the licence for the lorry which is or is to be withdrawn or replaced has been forwarded to the licensing authority for cancellation, or where the withdrawal is consequent on a voluntary transfer, has been forwarded to the Commissioner under section 18 and transmitted by him to the licensing authority; and
	(ii) unless payment is made of the duty payable under section 32 on the licence for the new lorry.
	(5) Where a lorry is withdrawn from service under section 58 or is to be replaced by another lorry otherwise than in consequence of the voluntary transfer thereof, the licensing authority shall cancel the licence for that lorry before the issue of a licence for a new lorry under this section, and upon such cancellation a refund of duty shall be made in accordance with the provisions of section 36.
	(6) Nothing contained in section 43 and in sections 45 to 52 shall apply in the case of any application made under this section for a licence for a new lorry.
	(3) In the marginal note the words "omnibuses or" shall be omitted.

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
23. 58B	<p>(1) For sub-section (1), substitute the following :—</p> <p>“(1) On any change of possession of a lorry, otherwise than on the death of the registered owner, the new owner of the lorry may make application in accordance with the provisions of section 43 for a new licence for the lorry, and the provisions of that section and of sections 45 to 52 shall apply accordingly : Provided, however, that in any case where the application is for a new licence in respect of the area of operation and additional services, if any, approved for that lorry before the change of possession, the Commissioner may in his discretion, pending the final determination of the application as herebefore provided, direct the licensing authority to issue a provisional licence to the applicant.”</p> <p>(2) In sub-section (2), the words “omnibus or”, wherever they occur collectively in that sub-section shall be omitted.</p>
24. 58C	<p>(1) In sub-section (1) (a), for the words “an omnibus or lorry”, substitute the words “a lorry”.</p> <p>(2) In sub-section (2), the words “omnibus or” shall be omitted.</p> <p>(3) For sub-section (3), substitute the following :—</p> <p>“(3) In any case where a provisional licence for a lorry is issued in accordance with sub-section (1), the duty payable thereon shall be the same as the duty which would under section 32 be payable on an ordinary licence for that lorry.”</p> <p>(4) In the marginal note, omit the words “omnibus or”.</p>
25. 58D	<p>In sub-section (3)—</p> <p>(a) in paragraph (a), omit the words “omnibus or” ;</p> <p>(b) in paragraph (b), for the words “an omnibus or lorry”, substitute the words “a lorry”.</p>
26. 58E	<p>For this section, substitute the following new section :—</p> <p>Relief 58E. (1) The Commissioner may at any time in his discretion, upon application made in the prescribed form by any person who is the holder of, or an applicant for, five or more licences for lorries, direct the licensing authority to issue to that person a relief licence for each additional lorry which he may be authorised by the Commissioner to keep.</p> <p>(2) Where any licensing authority is directed under sub-section (1) to issue a relief licence for an additional lorry, the provisions of section 44 and of paragraphs (a) to (d) of section 53 (2) shall apply, and for the purposes of such application the order or direction of the Commissioner under this section shall be deemed to be a decision or order communicated to the licensing authority under section 52.</p> <p>(3) Notwithstanding anything to the contrary in this Ordinance, the duty payable on a relief licence for an additional lorry for any period shall be one half of the duty which would be payable under section 32 on an ordinary licence for that period for a lorry of that class or description.</p> <p>(4) Nothing contained in sections 43 and 45 to 52 shall apply in relation to any application for, or to the issue of, a relief licence for an additional lorry.</p> <p>(5) Where a relief licence for an additional lorry has been issued to any person under this section, the additional lorry shall not be used except—</p> <p>(a) in place of, and in an area of operation approved for, a lorry which is temporarily withdrawn from use and which is owned by that person ; or</p>

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
	<p>(b) under a special permit issued in accordance with the provisions of section 117 or section 118; or</p> <p>(c) in such other circumstances and subject to such conditions as may be prescribed.</p> <p>(6) Where any additional lorry is used in contravention of the provisions of sub-section (5) the owner and the driver of the lorry shall severally be guilty of an offence.</p> <p>(7) Where a relief licence is in force for an additional lorry, that licence shall be carried thereon in accordance with the provisions of section 35, together with the licence for any other lorry in place of which the additional lorry may for the time being be used.</p>
27. 59	<p>(1) In the heading immediately above this section, for the words "motor cabs", substitute the words "motor cabs and omnibuses".</p> <p>(2) For the words "motor cab", wherever they occur in this section, substitute the words "motor cab or omnibus".</p> <p>(3) For the words "that cab" in sub-section (2), substitute "that cab or omnibus".</p>
28. 107	<p>(1) In sub-sections (1), (3) and (4), for the expression "hiring car", wherever it occurs in any of those sub-sections, substitute the expression "motor cab".</p> <p>(2) In sub-section (2), for all the words from "every omnibus" to "highway," substitute the words "every motor cab plying on that route or highway."</p> <p>(3) In the marginal note, for the words "hiring cars" substitute "motor cabs".</p> <p>(4) The following new sub-section shall be inserted immediately after sub-section (2) :—</p> <p>(2A) Nothing in the preceding provisions of this section or in any regulations made thereunder shall apply in the case of any motor cab for the time being used for the conveyance of passengers at separate fares under the authority of a road service licence issued under any other written law.</p>
29. 116	Sub-section (1) shall be repealed.
30. 117	<p>(1) In sub-section (1)—</p> <p>(a) for the words "registered owner of an omnibus or lorry", substitute the words "registered owner of a lorry";</p> <p>(b) for the words "that omnibus or lorry", substitute the words "that lorry".</p> <p>(c) paragraphs (a) and (b) shall be omitted.</p> <p>(2) In sub-section (2), for the words "passengers or goods, as the case may be," substitute "goods".</p> <p>(3) Sub-section (3) shall be repealed.</p> <p>(4) In the marginal note, the words "omnibuses and" shall be omitted.</p>
31. 118	<p>In sub-section (1), for all the words from "officer by whom—" to the end of that sub-section, substitute the following :—</p> <p>"officer by whom a lorry may be authorised to be used for the carriage of goods outside the area of operation specified in the licence, or to be driven to or from any stated place for the purposes of repairs or alterations."</p>
32. 125	In sub-section (1), paragraph (d) shall be omitted.
33. 159	<p>(1) In sub-section (1)—</p> <p>(a) for all the words from "Where any court" to "driver, conductor or owner," substitute the following :—</p> <p>"Where any court which in any year convicts the driver or the owner of a lorry of the offence of contravening the provisions of section 5 or of an offence under section 122, is satisfied that that driver or owner,";</p> <p>(b) the words "omnibus or" wherever they occur collectively in that sub-section, shall be omitted.</p>

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
	(2) In sub-section (3)— (a) for the words "for an omnibus or lorry", substitute the words "for a lorry"; (b) for the words "that omnibus or lorry", substitute the words "that lorry".
34. FIRST SCHEDULE.	For paragraph (2) of regulation 24, substitute the following:— " (2) The number of the road service licence under the authority of which an omnibus or a motor cab is used on any road shall be painted or otherwise exhibited, in such manner as the Commissioner may require, on the destination indicator of that omnibus."

Passed in Council the First day of October, One thousand Nine hundred and Forty-two.

D. C. R. GUNAWARDANA,
Clerk of the Council.

Assented to by His Excellency the Governor the Twenty-seventh day of October, One thousand Nine hundred and Forty-two.

C. H. HARTWELL,
Secretary to the Governor.

NOTIFICATIONS OF CRIMINAL SESSIONS.

BY virtue of a mandate to me directed by the Hon. the Supreme Court of the Island of Ceylon, I do hereby proclaim that a criminal session of the said court for the District of Badulla will be held at the court-house at Kandy, on Tuesday, December 1, 1942, at 11 o'clock of the morning of the said day.

And I do hereby require and inform all persons concerned therein to attend at the time and place above mentioned, and not to depart without leave asked and granted.

Fiscal's Office,
Badulla, October 28, 1942.

P. M. ANDRADO,
for Fiscal, Uva.

Nugegoda in the Palle pattu of Salpiti korale in the District of Colombo, Western Province (now within the Urban Council limits of Dehiwala-Mt. Lavinia); and bounded on the north by the property belonging to C. E. Ekanayake, east by the property of Mr. Lobendhal, south by the new high level road to Padukka, and west by a cart road; and containing in extent 1 rood and 19.63 perches according to plan No. 271 dated December 12, 1927, made by Walter E. Lucas, Licensed Surveyor, and registered in M 319/62.

Fiscal's Office,
Colombo, October 27, 1942.

H. C. WIJESINHA,
Deputy Fiscal.

DISTRICT AND MINOR COURTS NOTICES.

Destruction of Court Records

NOTICE is hereby given that, at the expiration of three months from the date hereof, the cases of this court for the year 1936—Nos. 17,489 to 35,473 and Nos. 4,774 to 10,349—will be destroyed.

Any person interested in any record may personally, by proctor, or by duly authenticated petition claim upon good cause shown, that such record may not be destroyed.

Municipal Court,
Colombo, October 22, 1942.

N. KRISHNADASAN,
Municipal Magistrate.

In the District Court of Colombo

In the matter of the estate of Mohamed Haniffa Mohamed Salih, deceased.

The Commissioner of Estate Duty Petitioner.
No. 9,658 Testy.

Mohamed Yooseof, Fathima Hany Salih of 24/2, Moors road, Wollawatta, being the executor of the estate of the above-named deceased Respondent.

NOTICE is hereby given that on Monday, November 23, 1942, at 3.30 p.m., will be sold by public auction at the premises the following property, belonging to the estate of the above-named deceased, for the recovery of the sum of Rs. 5,652.26 with interest thereon at 4 per cent. per annum from April 3, 1942, to date of payment being estate duty due in respect of above estate, viz.:—

All that premises bearing assessment Nos. 10 and 49 and presently bearing assessment Nos. 51, 53, and 55, Belmont street, Hulftsdorp, within the Municipality and District of Colombo, W. P.; bounded on the north by property of Francisco Perera and others, east by the school building belonging to the Wesleyan Mission Society, south by Belmont street, and west by Smith street; containing in extent 5 23/50 perches.

Fiscal's Office,
Colombo, October 27, 1942.

H. C. WIJESINHA,
Deputy Fiscal.

NOTICES OF INSOLVENCY.

In the District Court of Colombo

No. 5,661. In the matter of the insolvency of Edmund Rajah de Alwis, of 29, Frankfort place, Bambalapitiya.

WHEREAS Frederick Pike of Colombo has filed a declaration of insolvency, and a petition for the sequestration of the estate of Edmund Rajah de Alwis, under the Ordinance No. 7 of 1853. Notice is hereby given that the said court has adjudged the said Edmund Rajah de Alwis insolvent accordingly; and that two public sittings of the court, to wit, on November 27, 1942, and on January 7, 1943, will take place for the said insolvent to surrender and conform to, agreeably to the provisions of the said Ordinance, and for the taking of the other steps set forth in the said Ordinance, of which creditors are hereby required to take notice.

October 20, 1942.

By order of court, C. EMMANUEL,
Secretary.

In the Court of Requests of Colombo.

Isabella Dabarera nee P. Amaratunga, Rose Villa, Ja-ela. . . Plaintiff.
No. 75,972.

Mrs. B. K. F. Rodrigo, Victoria Villa, Uswetakeiyawa, Wattala Defendant.

NOTICE is hereby given that on Tuesday, November 24, 1942, at 3 p.m., will be sold by public auction at the premises the right, title and interest in the said defendant in the following property for the recovery of the sum of Rs. 1,100 with interest thereon at 9 per cent. per annum from June 5, 1941, to date of decree, August 26, 1941, and thereafter legal interest on the aggregate amount till payment in full and costs of suit—incurred costs, Rs. 20 25 and prospective costs Rs. 8 50, viz.:—

All that premises bearing No. 5, Karlshue place, Colombo, within the Municipality and District of Colombo, Western Province, bounded on the north by Karlshue place, east by premises known as Summer, south by the property of Advocate Basnayake, and west by the premises of U. K. Robert Silva and the buildings standing thereon; containing in extent 7 11/35 perches.

Fiscal's Office,
Colombo, October 27, 1942.

H. C. WIJESINHA,
Deputy Fiscal.

NOTICES OF FISCAL SALES.

Western Province.

In the District Court of Colombo.

Mrs. E. P. Perera of Hampden lane, Wellawatta Plaintiff.
No. 5,397/S.

Mrs. Florence Ekanayake of 10, Rajasinghe road, Wellawatta, Colombo Defendant.

NOTICE is hereby given that on Friday, November 20, 1942, at 3 p.m., will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property for the recovery of the sum of Rs. 750 together with legal interest thereon from May 3, 1942, till payment in full and costs of suit, viz.:—

An undivided one-half part or share of the defined portion of land called Jambughawatta bearing assessment No. 379, situated at

In the District Court of Amissawella.

Mututantrige Don Peter Singho of Nagoda Plaintiff.
No. G 378/3094. Vs.

Parana Mannage Podinola, of Garagoda duly appointed legal representative over the estate of Bombuwalage Perera Singho deceased Defendant.

NOTICE is hereby given that on Friday, November 27, 1942, at 11 o'clock in the forenoon, will be sold by public auction at the premises the right, title, and interest of the said defendant in the following property, for the recovery of Rs. 397 with interest thereon at the rate of 9 per cent. per annum from date of decree till payment in full and costs taxed at Rs. 182 50, viz. —

An undivided extent of two acres planted in rubber with the building standing thereon from and out of an undivided extent of seven acres belonging to Bastian Perera from the land called Doraluwa, situated at Garagoda in Atulugam korale of Three Korales in the District of Kegalla, Province of Sabaragamuwa; and bounded on the north by Jambugahamulahena, east by Garagoda-ela and Udakumbura, south by Haldolehena, and on the west by Bogahamulahena and Dogal Assa rubber estate, and containing in extent 20 acres 2 roods and 18 perchos, and the trees and plantations standing thereon.

Valuation: Rs. 1,150.

Fiscal's Office, A. V. P. SAMARANAYAKA,
Amissawella, October 20, 1942. Deputy Fiscal.

In the District Court of Amissawella.

(1) Edrisinghe Mudyanselage Panchsingho of Atulugala, and others Plaintiffs
No. 3,154. Vs.

(1) Hapugodage Pavulis Singho of Waldepowita, and others Defendants.

NOTICE is hereby given that on Thursday, November 26, 1942, at 11 o'clock in the forenoon, will be sold by public auction at the premises the right, title, and interest of the said 1st defendant in the following property for the recovery of Rs. 328 02, viz. —

An undivided $\frac{1}{2}$ share of the land called Dangahadeniya, situated at Amtrigala in Dehigampal korale of Three Korales in the District of Kegalla, Province of Sabaragamuwa; and bounded on the north by lands planted by Smanchi Appuhamy and Arnolis, east by Batadombagahawatta, south by Dangahadeniyakumbura, and west by Dangahadeniyawatta; and containing in extent about 12 acres.

Valuation: Rs. 1,500.

Fiscal's Office, A. V. P. SAMARANAYAKA,
Amissawella, October 23, 1942. Deputy Fiscal.

In the District Court of Amissawella.

(1) Kandekankanamalage Nonohamy of Maniyangama, and another Plaintiffs.
No. 3,157. Vs.

(1) Puwakowitige Podappuhamy and another of Getahetta Defendants.

NOTICE is hereby given that on Monday, November 23, 1942, at 4 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said 1st plaintiff in the following property, for the recovery of Rs. 420, plus stamps Rs. 7 80, viz. —

All that land called Kumbukgahakumbura, situated at Walawita alias Durumpitiya in Palle pattu of Kappawita korale in the District of Ratnapura, Province of Sabaragamuwa, and bounded on the north by illukowita, east by agala and Umadamsowita, south by deniya and immyara of Dolgahayatalyadda, and west by ditch of Gurugawatta; and containing in extent 3 pelas of paddy sowing more or less.

Valuation: Rs. 1,800.

Fiscal's Office, A. V. P. SAMARANAYAKA,
Amissawella, October 23, 1942. Deputy Fiscal.

Central Province.

In the Court of Requests of Kandy.

Pena Perumal Palle of Dambawela, Ampitiya, Kandy Plaintiff.
No. 30,356. Vs.

V. Selvadurai of Dambawela, Ampitiya, Kandy, in his personal capacity and as legal representative of the estate of the late Sena Sellathay, deceased, and guardian *ad litem* over the minors (1) S. Sanmugarajah, (2) S. Logirajah, (3) S. Arumugarajah, and (4) S. Paramaswari Defendants.

NOTICE is hereby given that on Monday, November 30, 1942, at 2 o'clock in the afternoon, will be sold by public auction at the premises the right, title, and interest of the said defendants in the following property mortgaged with the plaintiff by bond No. 897 dated September 16, 1931, and attested by M. J. Taylor of Kandy, Notary Public, and declared specially bound and executable under the decree entered in the above action and ordered to be sold by order of court dated May 6, 1942, for the recovery of the sum of Rs. 175 02, with legal interest on Rs. 138 47, from December 10, 1941, till payment in full and poundage, viz. —

All that western portion of the land called Dambawelawatta of $\frac{3}{4}$ acres in extent, situated at Gurudeniya in Gandahaye korale of Lower Hewaheta in the District of Kandy, Central Province; and bounded on the north and north-east by the property belonging to Kudasale Arachy, east by the excluded portion of this land owned

by Kandasamy's daughter, Nagamma, on the south by Crown land, and on the west and north by land appearing in plan No. 51,066; and which said land is also described as being bounded on the north by the property of Thai Amma, on the east by the property of Mr. Lambert Piers, on the south by the remaining portion of this land, and on the west by the drain of property of Thai Amma, containing in extent 3 acres and 2 roods as per plan dated August 23, 1930, made by S. A. Soysa of Kandy, Licensed Surveyor. Registered Kandy G 121/202.

Fiscal's valuation: Rs. 1,750.

Fiscal's Office, CHARLES DE SILVA,
Kandy, October 24, 1942. Deputy Fiscal.

Eastern Province.

In the District Court of Batticaloa.

P. H. Mylvaganam Bonnammah of Nochimunai Plaintiff.
No. 317M. Vs.

(1) Sehu Mohaideen Maracair, Kathishamma for herself and as guardian *ad litem* of the minor, the 3rd defendant, (2) Adam Abdul Careem, Aliyar Mohamed Pathumma, (3) Abdul Majeed Asiamma (minor, aged 3 years, by her guardian *ad litem* the 1st defendant), (4) (dead) Abdul Majeed Abdul Jaleel, aged 4 months, all of Kattankudy Division No. 1 Defendants.

NOTICE is hereby given that on Tuesday, November 24, 1942, commencing at 11 o'clock in the forenoon, will be sold by public auction at the spot the right, title and interest of the said defendants in the following property for the recovery of the sum of Rs. 1,217 42 together with interest thereon at 9 per cent. per annum from October 25, 1940, till payment in full, costs Rs. 289 31 $\frac{1}{2}$, poundage and other charges, viz. —

A paddy land situated at Miravodai in Koralai pattu, Batticaloa District, Eastern Province, in extent 18 acres 1 rood and 3 perchos; and bounded on the north by Thikkaththa Vaddavan Mummari Poomi belonging to Elavathamby, south by the property of M. Aliyar Marakayar, east by the property of E. Uthumalebbepody and U. Ahamathulebbepody, and west by the land of J. A. M. Aliyar, with all rights.

This property is subject to lease in favour of A. Seiyathu Muhamathu of Miravodai for the 1942 cultivation only.

This property has also been seized under D. C., Batticaloa, case No. 110 Misc.

Fiscal's Office, V. SURPRAMANTIAM,
Batticaloa, October 26, 1942. for Fiscal.

North-Western Province.

In the District Court of Kurunegala.

(1) K. M. P. R. Kumarappa Chettiar and (2) K. M. P. R. Periya Caruppon Chettiar by their attorney, V. R. Balakrishna Rawth of Kurunegala Plaintiff.
No. 1,026. Vs.

(1) K. M. Sogu Mohammedo, (2) K. P. Sahul Hameedo and (3) K. M. Seiyadu Abbas, all of Kurunegala Defendants.

NOTICE is hereby given that on Friday, November 27, 1942, at 10 o'clock in the forenoon, will be sold by public auction at the respective premises the right, title and interest of the said defendants in the following property for the recovery of the sum of Rs. 1,258 45, together with interest on Rs. 1,000 at the rate of 15 per cent. per annum from June 26, 1942 to June 29, 1942, and thereafter with legal interest at nine per cent. per annum on the aggregate amount till payment in full and poundage, viz. —

(1) The divided northern half share portion of 2 lahas kurakkan sowing extent of 1 acre and 35 perchos in extent, together with the buildings thereon from and out of Kahatagahamulawatta, situated at Kuripotta in Udapola Medalasse korale of Dambadeni hatpattu in the Kurunegala District, North-Western Province, and bounded on the east by Panchirala's garden, south by remaining half share portion of this land of M. S. Abbas which is separated by a fence, west by high road to and from Colombo, and north by Muttettuwe-wela. Registered at F 144/250.

Same day at 2 p.m.

(2) An undivided $\frac{2}{3}$ share of several allotments of land forming one property called and known as Methakkawatta; containing in extent 28 acres 1 rood and 36 perchos, situated at Konpola in Tiragandahaye korale of Weddawal hatpattu in the Kurunegala District aforesaid; and bounded on the north by polwatta and chena of Babasingho, east by the land claimed by Mahanappu, Polwatta of Bandiya and others, garden of Dimgiriya and others and Methakka of Sma and others, south by wire fence of Rock-Cave estate of R. S. Peris of Methakka, and west by Angewela and Ulagawawela of Andurisa. Registered at A 272/140.

Fiscal's Office, W. D. M. PERERA,
Kurunegala, October 27, 1942. Additional Deputy Fiscal.

I, Edward Trevor Dyson, Fiscal for the Central Province, do hereby appoint Mr. W. S. S. Moneravela, Interpreter, District Court, Hatton, to act as Fiscal's Marshal, Hatton, with effect from October 19, 1942, until the resumption of duties by the permanent officer, under Ordinance No. 4 of 1867, and authorise him to perform the duties and exercise the authority of Marshal, for which this shall be his warrant.

Fiscal's Office, E. T. DYSON,
Kandy, October 20, 1942. Fiscal.

NOTICES OF TESTAMENTARY ACTIONS.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Last Will and Testament of Jurisdiction. Wanniaratchige Caroline Fonseka of Mirihana, No. 10,172.

Bontara Heriatchige Don James de Alwis of Kotikawatta, Angoda Petitioner.

THIS matter coming on for disposal before V. L. St. Clair Swan Esq., Additional District Judge of Colombo, on September 9, 1942, in the presence of Mr. S. W. de Soysa, Proctor, on the part of the petitioner above named; and the affidavit of (1) the petitioner dated September 8, 1942, (2) the attesting notary dated September 8, and (3) the attesting witnesses dated November 25, 1941, having been read:

It is ordered that the last will of Wanniaratchige Caroline Fonseka, deceased the original of which has been produced and is now deposited in this court, be and the same is hereby declared proved and that the petitioner above named be and he is hereby declared entitled, as the sole devisee under the said will to have letters of administration with the will annexed issued to him accordingly, unless any person or persons interested shall, on or before October 22, 1942, show sufficient cause to the satisfaction of this court to the contrary.

September 14, 1942. S. C. SWAN, Additional District Judge. Date for showing cause is extended to December 3, 1942.

S. C. SWAN, Additional District Judge.

In the District Court of Colombo.

Order Nisi.

Testamentary In the Matter of the Last Will and Testament of Jurisdiction. Gaspar Anthony Gomez alias Gaspar Gomez of Havelock Town in Colombo, deceased. No. 10,189.

Cruz Pillai Ammal Corera alias Mary Corera nee Corera of 2, Anderson road, Havelock Town in Colombo Petitioner.

THIS matter coming on for disposal before V. St. Clair Swan, Esq., Additional District Judge of Colombo, on September 25, 1942, in the presence of Mr. G. R. Motha, Proctor, on the part of the petitioner above named; and the affidavit of (1) the petitioner dated September 17, 1942, and (2) the attesting notary and the witness dated September 17, 1942, having been read:

It is ordered that the last will and testament of Gaspar Anthony Gomez alias Gaspar Gomez, deceased the original of which has been produced and is now deposited in this court, be and the same is hereby declared proved and that the petitioner above named be and she is hereby declared entitled, as the executrix named in the said will, to have probate thereof issued to her accordingly, unless any person or persons interested shall, on or before November 5, 1942, show sufficient cause to the satisfaction of this court to the contrary.

October 23, 1942. JAMES JOSEPH, Additional District Judge.

In the District Court of Colombo.

Order Nisi.

No. 10,194. Testamentary In the Matter of the Intestate Estate of the late Jurisdiction. Marcus Joseph Felthman alias Marcus William Felthman, deceased.

Erin Dorothy Felthman of 804, Thorana Junction, Kandy road, Kelaniya Petitioner.

(1) Bertha Truda Felthman (minor), (2) Eugene Wencelans Peter Felthman (minor), (3) Merril Christ Felthman (minor), (4) Stephanie Hope Felthman (minor), (5) Philip Henry Lawrence, all of 804, Thorana Junction, Kandy road, Kelaniya Respondents.

THIS matter coming on for disposal before James Joseph, Esq., Additional District Judge, Colombo, on October 3, 1942, in the presence of Mr. V. C. C. Desapurarathna, Proctor, on the part of the petitioner above named; and the affidavit of the petitioner dated October 1, 1942, having been read:

It is ordered that the 5th respondent above named be and he is hereby appointed guardian *ad litem* of the minors, the 1st, 2nd, 3rd, and 4th respondents, to represent them for all the purposes of this action and that the petitioner be and she is hereby declared entitled, as the widow of the deceased above named, to have letter of administration to the above estate issued to her accordingly, unless the respondents above named or any other person or persons interested shall, on or before November 12, 1942, show sufficient cause to the satisfaction of this court to the contrary.

October 6, 1942. JAMES JOSEPH, Additional District Judge.

In the District Court of Negombo.

Order Nisi declaring Will proved.

Testamentary In the Matter of the Last Will and Testament of the Jurisdiction. Late Walimuni Engine Mendis of 44, Jayaratne road, Negombo, deceased. No. 3,189.

Walimuni Dharmasena Mendis of Jayaratne road, Negombo Petitioner.

(1) Yagama Aloginona Silva, (2) Mhidukulasuriya Monica Fernando, (3) M. D. Stanislaus, (4) Walimuni Wimalawansa Mendis, all of Jayaratne road, Negombo Respondents.

THIS matter coming on for disposal before Spencer Rajaratnam, Esq., District Judge of Negombo, on October 16, 1942, in the

presence of Mr. C. Herbert de Silva, Proctor, on the part of the petitioner; and the petition and the affidavit of the petitioner dated October 16, 1942, and October 9, 1942, respectively, and the affidavit dated October 14, 1942, of the attesting notary and witnesses having been read:

It is ordered that the last will of the said Walimuni Engine, deceased bearing No. 14 dated January 9, 1942, and attested by Cutti Herbert de Silva of Negombo, Notary Public, the original of which has been produced and is now deposited in this court, be and the same is hereby declared proved, unless the respondents above named or any other person or persons interested shall, on or before November 4, 1942, show sufficient cause to the contrary to the satisfaction of this court.

It is further ordered that the 2nd respondent above named be and she is hereby appointed guardian *ad litem* of the 3rd and 4th respondents above named, who are minors, to represent them for all the purpose of this action, and (b) that the said petitioner is the executor named in the said will and that he is entitled to have probate thereof issued to him accordingly, unless the respondents or any other person or persons interested shall, on or before November 4, 1942, show sufficient cause to the satisfaction of this court to the contrary.

October 16, 1942. SPENCER RAJARATNAM, District Judge.

In the District Court of Kalutara.

Order Nisi declaring Will proved.

Testamentary In the Matter of the Estate of the late Mohamed Jurisdiction. Lebbe Dawood Lebbe, deceased, of Adikangoda. No. 3,054.

(1) Davood Lebbe Mohamed Jifry of Adikangoda Petitioner
(1) Davood Lebbe Mohamed Lebbe Saleem, (2) ditto Fathma Haneeda (minors by guardian *ad litem*), (3) ditto Abdul Wadood, (4) ditto Kawula Beebi, wife of L. L. M. Samson Marikar, (5) Ismail Lebbe Salaha Umma, all of Adikangoda Respondents

THIS matter coming on for disposal before V. Joseph, Esq., District Judge of Kalutara, on September 25, 1942, in the presence of Mr. A. M. Thaha, Proctor, on the part of the petitioner; and the affidavit of the above-named petitioner dated September 24, 1942, having been read:

It is ordered that the petitioner above named be and he is hereby declared entitled, as the son of the deceased, to have letters of administration issued to him, unless the respondents or any other person interested in the estate shall, on or before November 11, 1942, show sufficient cause to the satisfaction of this court to the contrary.

September 25, 1942. V. JOSEPH, District Judge.

In the District Court of Kalutara.

Order Nisi declaring Will proved, &c.

Testamentary In the Matter of the Estate of the late Dona Francis Jurisdiction. Perera Samarasekera Gunatilleke, deceased, of No. 3,056. Palatota, Kalutara.

Dulena Mabel Amarasinghe nee Kuruppu Gunatilleke of 5th lane, Kollupitiya Petitioner.

And
(1) Subadhra Kuruppu Gunatilleke, (2) Semipaba ditto, (3) Jayasumathi ditto (2nd and 3rd minors) Respondents.

THIS matter coming on for disposal before V. Joseph, Esq., District Judge of Kalutara, on September 30, 1942, in the presence of Mr. D. J. K. Gunatilleke, Proctor, on the part of the petitioner; and the affidavit of the above-mentioned petitioner dated September 26, 1942, having been read, and the last will No. 1032 of August 6, 1938, having been filed in court:

It is ordered that the will of Dona Francis Perera Samarasekera Gunatilleke, deceased, dated August 6, 1938, and numbered 1032 be and the same is hereby declared proved, unless the respondents or any other person or persons interested in the estate shall, on or before November 9, 1942, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said Subadhra Kuruppu Gunatilleke, 1st respondent, be appointed guardian *ad litem* over the 2nd and 3rd respondents, and that the said Dulena Mabel Amarasinghe nee Kuruppu Gunatilleke, petitioner, be appointed administratrix of the estate, unless the respondents or other person or persons interested in the estate shall, on or before November 9, 1942, show sufficient cause to the satisfaction of this court to the contrary.

September 30, 1942. V. JOSEPH, District Judge.

In the District Court of Kandy.

No. T. 299. In the Matter of the Intestate Estate and Effects of Dasanayake Mudiyansele Rambanda of Kurunheniya deceased.

Moremada Mudiyansele Bandara Menika of Deegahawatura Petitioner.

And
(1) Dasanayake Mudiyansele Gunasekera, (2) Moremada Mudiyansele Ran Banda of Kurunheniya Respondents.

THIS matter coming on for disposal before Chellappa Nagalingam, Esq., District Judge, Kandy, on August 27, 1942, in the presence of Mr. B. H. Dunuwille, Proctor, Supreme Court, on the part of the petitioner, Moremada, Mudiyansele Bandara Menika; and the affidavit of the said petitioner dated August 17, 1942, having been read:

It is ordered that the 2nd respondent be appointed guardian *ad litem* over the 1st respondent, and that the petitioner be and she is hereby declared entitled, as the wife of the above-named deceased to have letters of administration to the estate of the deceased issued to her, unless the respondents or any other person or persons interested shall, on or before October 15, 1942, show sufficient cause to the satisfaction of this court to the contrary.

August 31, 1942.

Date for showing cause is extended for November 30, 1942.

October 15, 1942.

C. NAGALINGAM,
District Judge.C. NAGALINGAM,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testamentary In the Matter of the Estate of the late Grace Jurisdiction. Victor, wife of the late Daniel Nawamam Victor No. T. 304. deceased.

THIS matter coming on for disposal before C. Nagalingam, Esq., District Judge of Kandy, on September 10, 1942, in the presence of Mr. K. N. Coomaraswami, Proctor, on the part of the petitioner, Ernest Rutnam Victor of Panwila, and the affidavit of the said petitioner dated September 7, 1942, having been read:

It is ordered that the petitioner be and he is hereby declared entitled, as the son of the above-named deceased, to have letters of administration to the estate of the deceased issued to him, unless the respondent, (1) Agnes Chandralocla Victor of Panwila, or any other person or persons interested shall, on or before November 30, 1942, show sufficient cause to the satisfaction of this court to the contrary.

September 10, 1942

C. NAGALINGAM,
District Judge.

In the District Court of Kandy.

Order Nisi.

Testy. In the Matter of the Estate of the late Garumunu Araniols No. T. 307. Mendis of Polongalawatta in Warakawa, Nawalapitiya, deceased.

Garumunu Kusumadasa Mendis of Polongalawatta, Warakawa, Nawalapitiya Petitioner

And

Garumunu Memoris Mendis of Mahapenadama, Ambalangoda Respondent.

THIS matter coming on for disposal before T. F. C. Roberts, Esq., Additional District Judge, Kandy, on September 16, 1942, in the presence of Mr. M. J. Perera, Proctor, on the part of the petitioner, Garumunu Kusumadasa Mendis; and the affidavit of the said petitioner dated September 15, 1942, having been read:

It is ordered that the petitioner be and he is hereby declared entitled, as an heir of the above-named deceased, to have letters of administration to the estate of the above-named deceased issued to him, unless the respondent above named or any other person or persons interested shall, on or before October 29, 1942, show sufficient cause to the satisfaction of this court to the contrary.

September 16, 1942.

T. F. C. ROBERTS,
Additional District Judge.

In the District Court of Galle.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of the late Jurisdiction. Charles Jayasekera of Lelkada, deceased. No. 8,017

Euben Jayasekera of Lelkada Petitioner.

Vs.

(1) Nanayakkara Telikada Paliye Guruge Diona. (2) Lousa Jayasekera, (3) Carlina Jayasekera, (4) Magalin Jayasekera, (5) Yasapala Jayasekera, (6) Anyapala Jayasekera, (7) Kusumawathie Jayasekera, all of Lelkada Respondents.

THIS matter coming on for disposal before A. S. Wanigasooriyar, Esq., District Judge of Galle, on October 1, 1942, in the presence of Mr. F. A. de S. Wijeratna, Proctor, on the part of the petitioner above named, and the affidavit of the said petitioner dated March 20, 1942, having been read:

It is ordered that the above-named 2nd respondent be appointed guardian *ad litem* over the above-named 5th to 7th respondents, unless the said respondents shall, on or before November 6, 1942, show sufficient cause to the satisfaction of the court to the contrary.

It is further ordered that the said petitioner, as the eldest son of the deceased above named, is entitled to letters of administration issued to him accordingly, unless the respondents above named shall, on or before November 6, 1942, show sufficient cause to the satisfaction of the court to the contrary.

M. A. SAMARAKOON,
District Judge

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Estate and Effects of Jurisdiction. Amammal, daughter of Chellappah of Navaly, deceased. No. 33.

Chellappah Senathurajah of Navaly North, presently of Brown & Co., Hattton Petitioner.

(1) Nallamuthu, widow of Chellappah, (2) Kandiah Appathurai and wife (3) Thazalnayake, all of Navaly North Respondents

THIS matter of the petition of the above-named petitioner, praying for letters of administration to the estate of the above-named deceased, coming on for disposal before G. C. Thambyah,

Esq., District Judge, Jaffna, on September 4, 1942, in the presence of Mr. A. Subramaniam, Proctor, on the part of the petitioner, and the affidavit of the petitioner dated September 4, 1942, having been read. It is declared that the petitioner is the sister of the said intestate and is entitled to have letters of administration to the estate of the said intestate issued to him, unless the respondents or any other person or persons shall appear in person on or before November 6, 1942, and show sufficient cause to the satisfaction of this court to the contrary.

September 26, 1942.

G. C. THAMBYAH,
District Judge.

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Estate and Effects of Kana- Jurisdiction. gampah, wife of Sinnathamby Velautham of No. 34. Urumpiray, deceased.

Sinnathamby Velautham of Urumpiray Petitioner.

(1) Saraswathy, daughter of Velautham, (2) Velautham Nadarajah, (3) Velautham Palasingham, (4) Velautham Padmanathan, (5) Velautham Palasubramaniam, (6) Veluppillai Chelliah, 1st to 5th respondents are minors appearing by their proposed guardian *ad litem*, the 6th respondent, all of Urumpiray Respondents.

THIS matter of the petition of Sinnathamby Velautham, the above-named petitioner, praying for appointment of guardian *ad litem* and for letters of administration to the estate of the above-named deceased, coming on for disposal before G. C. Thambyah, Esq., District Judge, Jaffna, on September 10, 1942, in the presence of Mr. A. Subramaniam, Proctor, on the part of the petitioner, and the affidavit of the petitioner dated July 13, 1942, having been read: It is ordered that the above-named 6th respondent be appointed as guardian *ad litem* over the 1st to 5th minor respondents for all the purposes of this action and that the above-named petitioner be and he is hereby declared entitled, as widower of the above-named deceased, to have letters of administration to the above estate issued to him accordingly, unless the respondents or any other person or persons, shall appear in person on or before November 6, 1942, and show sufficient cause to the contrary.

September 26, 1942.

G. C. THAMBYAH,
District Judge.

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Estate of the late Subapathipp- Jurisdiction. pillai Kanapathippillai of Changanai in Jaffna, No 36. lately of Typing in the Federated Malay States, deceased.

(1) Ramalingam Sabapathippillai and wife, (2) Thayalmuttu, both of Changanai in Jaffna Petitioners.

Sabapathippillai Sampanthamboreddy of ditto Respondent.

THIS matter coming on for disposal before G. C. Thambyah, Esq., District Judge of Jaffna, on September 15, 1942, in the presence of Mr. T. Sangarappillai, Proctor, on the part of the petitioner; and on reading the affidavit and petition of the petitioners: It is ordered that letters of administration to the estate of the above-named deceased be issued to the petitioners, unless the respondent or any other person shall appear before this court on November 13, 1942, and show sufficient cause to the satisfaction of this court to the contrary.

September 15, 1942.

G. C. THAMBYAH,
District Judge.

In the District Court of Jaffna.

Order Nisi.

Testamentary In the Matter of the Intestate Estate of the late Jurisdiction. Thammatharampillai Kandiah of Changanai in Jaffna, deceased. No. 37.

Sinnammah, widow of Thammatharampillai Kandiah of Changanai in Jaffna Petitioner.

(1) Kandiah Ethamanasingam of Typing, Malaya, (2) Kandiah Aputharamma of Changanai in Jaffna, (3) Kandiah Rajeswari of ditto, (4) Kandiah Parameeswari of ditto, (5) Kandiah Krishnaswami of ditto, (6) Kandiah Rajamalar of ditto, minors, and (7) Varavanathar Ampalavanar of Changanai in Jaffna Respondents.

THIS matter coming on for disposal before G. C. Thambyah, Esq., District Judge of Jaffna, on September 17, 1942, in the presence of Mr. T. Sangarappillai, Proctor, on the part of the petitioner; and the affidavit and petition of the petitioner having been read: It is ordered that the above-named 7th respondent be appointed as guardian *ad litem* over the minors, 1st to 6th respondents, to represent them and to act on their behalf in the proceedings of this testamentary action and that letters of administration to the estate of the above-named deceased be issued to the petitioner, unless the respondents or any other person shall appear before this court on November 13, 1942, and show sufficient cause to the satisfaction of this court to the contrary.

September 17, 1942.

G. C. THAMBYAH,
District Judge.

DRAFT ORDINANCES.

MINUTE.

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

L. D.—O 67/39

1/3/37 (FSO)

An Ordinance to provide for the exemption from Customs duty of articles imported or purchased for the use of His Majesty's Regular Naval, Military or Air Forces in Ceylon and sold in certain circumstances to members of the Ceylon Defence Force or of the Ceylon Naval Volunteer Force.

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

Short title.

1. This Ordinance may be cited as the Stores for Volunteer Forces (Exemption from Customs Duty) Ordinance, No. of 1942.

Exemption from Customs duty.

2. An article which has been exempted from import duty under section 22 (1) of the Customs Ordinance, or in respect of which a rebate of import duty has been allowed under section 23 (1) of that Ordinance, on the ground that the article has been imported or purchased for the use of any mess or canteen of His Majesty's Regular Naval, Military or Air Forces in Ceylon, shall not be deemed to have been used for any purpose other than the purpose for which the article was imported or purchased and shall accordingly not be liable to or be charged with import duty under the proviso to the aforesaid section 23 (1), in any case where the article is sold or supplied—

Cap. 185.

- (a) to any member of the Ceylon Defence Force or of the Ceylon Naval Volunteer Force who is of the description set out in the First Schedule, or to a mess or canteen maintained by or for the use of such members of the Ceylon Defence Force or of the Ceylon Naval Volunteer Force; and
- (b) in accordance with the conditions, restrictions or limitations set out in the Second Schedule and in all other respects in accordance with such rules or schemes for the allocation or rationing of such articles as may be applicable for the time being to the sale or supply of such articles to members of His Majesty's Regular Naval, Military or Air Forces.

Power to amend First Schedule or Second Schedule.

3. The Governor may from time to time amend or vary the First Schedule or the Second Schedule, in any manner he considers necessary, by Order published in the *Gazette*.

Duration of Ordinance.

4. This Ordinance shall cease to be in operation on such date as may be appointed by the Governor by Proclamation published in the *Gazette*.

FIRST SCHEDULE.

1. An officer, or a soldier, or a follower duly enrolled or employed on agreement, of any of the following corps of the Ceylon Defence Force, who is on full-time military duty :—

- (a) The Ceylon Garrison Artillery ;
 (b) The Ceylon Engineers, exclusive of the personnel of the Railway Unit, the Post and Telegraph Unit, and the Electrical and Mechanical Company ;
 (c) The Ceylon Light Infantry ;
 (d) The Ceylon Planters' Rifle Corps ;
 (e) The Ceylon Army Service Corps ;
 (f) The Ceylon Medical Corps.

2. An officer or rating of the Ceylon Naval Volunteer Force on full-time Naval duty.

SECOND SCHEDULE.

1. Alcoholic liquor shall be supplied only for consumption at a mess or canteen.

2. Articles other than alcoholic liquor shall be sold only for use or consumption by the purchaser in any camp, barracks or other quarters provided by the authorities of the Ceylon Defence Force or the Ceylon Naval Volunteer Force, as the case may be.

Objects and Reasons.

1. The object of this Bill is to permit members of the Ceylon Naval Volunteer Force and the Ceylon Defence Force who are employed on full time Naval or Military duty to purchase from the Expeditionary Force Institute articles which are exempt from Ceylon Customs duties.

2. It is considered that the privileges enjoyed by members of His Majesty's Regular Forces should, subject to certain conditions, which are embodied in this Bill, be extended to members of the local forces who are now serving side by side with Regular Troops.

Colombo, 28th October, 1942.

H. J. HUXHAM,
Financial Secretary.

MINUTE.

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

L. D.—O 41/41

4/3/14 (FSO)

An Ordinance to amend the Income Tax Ordinance.

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

Chapter 188.
(Volume IV.,
page 609).

Short title.

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance, No. of 1942.

Amendment of
section 7 of
Chapter 188.

2. (1) Section 7 of the Income Tax Ordinance, (hereinafter referred to as "the principal Ordinance"), is hereby amended, in sub-section (1), as follows :—

(a) by the insertion, immediately after paragraph (f) of that sub-section, of the following new paragraph :—

"(ff) the profits and income derived, during any war in which His Majesty may be engaged, by the Government of any part of His Majesty's dominions or the Government of any foreign power allied with His Majesty in the conduct of any such war, from any business carried on by any such Government as the owner or charterer of any ship or aircraft ; " ; and

(b) by the substitution, for paragraph (hh) of that sub-section, of the following new paragraph :—

"(hh) the official emoluments, and any income not arising in or derived from Ceylon, of—

(i) members of any of the regular or volunteer naval, military or air forces of His Majesty, raised in any part of His Majesty's dominions other than Ceylon, who are serving in Ceylon during any war in which His Majesty may be engaged ;

(ii) members of any of the regular or volunteer naval, military or air forces maintained by any foreign power allied with His Majesty in the conduct of any such war or by any foreign authority specified by the Governor by notification published in the *Gazette* to be a foreign authority associated with His Majesty in the conduct of any such war ;

(iii) persons employed in or visiting Ceylon for any purpose connected with any such war who are in the service of the Government of any part of His Majesty's dominions other than Ceylon or the Government of any such foreign power or who are in the service of any such foreign authority ; " .

(2) The amendment made in section 7 (1) of the principal Ordinance by paragraph (a) of sub-section (1) of this section shall be deemed to have come into force on the third day of September, nineteen hundred and thirty-nine.

(3) The amendment made in section 7 (1) of the principal Ordinance by paragraph (b) of sub-section (1) of this section shall be deemed to have come into force on the first day of April, nineteen hundred and forty-one, and, accordingly, the exemption granted by paragraph (hh) of the said section 7 (1) as so amended shall apply to all assessments made in respect of the year of assessment commencing on the first day of April, nineteen hundred and forty-one, and subsequent years of assessment.

3. (1) Section 45 of the principal Ordinance is hereby amended, in paragraph (b) of sub-section (4), by the substitution, for the words "under sub-section (6) or sub-section (7)" of the words "under sub-section (6) or sub-section (7) or sub-section (7A)".

Amendment of
section 45 (4)
of the principal
Ordinance.

(2) The amendment made in section 45 of the principal Ordinance by sub-section (1) of this section shall be deemed to have come into force on the first day of April, 1942.

4. Section 52 of the principal Ordinance is hereby amended by the substitution, for sub-section (1) of that section, of the following :—

Amendment of
section 52 of
the principal
Ordinance.

"(1) Where, in the case of a company controlled by not more than five persons—

(a) the assessable income of the company for any year of assessment is computed on the profits of the company for any year ending on or after the thirty-first day of December, nineteen hundred and forty-one (hereinafter referred to as the "previous year") ; and

(b) an Assessor is satisfied that, in respect of the previous year, the company has made no distribution out of its profits to its shareholders or has distributed to its shareholders out of such profits an amount which is less than sixty per centum of the assessable income of the company for that year of assessment, after deducting from such assessable income the amount of income tax payable by the company in respect of that year of assessment,

the Assessor may, subject as hereinafter provided, treat either the whole of such undistributed profits, or a specified part thereof, as distributed in the form of dividends, if the Assessor is of opinion that the whole of such profits, or such specified part thereof, as the case may be, could have been distributed in the form of dividends without detriment to the company's existing business, and the persons concerned shall be assessable accordingly :

Provided that no action under this sub-section shall be taken by an Assessor in the case of any such company until the expiration of a period of not less than three months after the date on which the accounts of the company for the previous year have been laid before the company in general meeting :

Provided, further, that where one of the shareholders of any such company is another company, any amount required by the preceding provisions of this sub-section to be treated as having been distributed in the form of dividends to such other company shall, for the purposes of the application of such provisions to such other company, be deemed to be profits of such other company and to form part of the assessable income of such other company."

—*Objects and Reasons.*

The object of Clause 2 (1) of this Bill is to extend the exemptions from income tax granted under section 7 of the Income Tax Ordinance (Chapter 188) to certain special cases which have arisen as a result of the war.

The Governments of the United States of America and other allied powers, as well as of certain Empire countries, have adopted the practice of acquiring or chartering ships and running them on Government account. The profits made by these Governments from the business of owner or charterer of ships or aircraft are liable to income tax in the absence of a special exemption. In view of the fact that this business has been undertaken by the various Governments to further the efficient prosecution of the war and the maintenance of essential supplies and services, it is desired to exempt any profits of the business from income tax, and Clause 2 (1) (a) of the Bill is designed to achieve this object. The exemption will operate retrospectively from 3rd September, 1939, and continue for the duration of the war.

Clause 2 (1) (b) of the Bill grants exemption from income tax to the official emoluments, as well as the private income derived from any place outside Ceylon, of all members of the regular or volunteer forces of His Majesty raised in any part of the British Empire other than Ceylon, all members of the regular or volunteer forces of a foreign allied power, and all persons employed in Ceylon for purposes connected with the war who are in the service of the Government of any part of the Empire other than Ceylon or the Government of any foreign allied power. This exemption is, by Clause 2 (3), made operative from 1st April, 1941.

2. Under section 52 (1) of the principal Ordinance the undistributed profits of any company controlled by not more than five persons can, for the purpose of computing income tax, be treated as distributed in the form of dividends only where an Assessor is satisfied that the non-distribution was with a view to the avoidance or reduction of tax. However large the undistributed profits of such a company may be, it may be difficult to establish that the persons responsible for the non-distribution acted with a view to avoiding payment of tax and not mistakenly in the genuine belief that a larger distribution of the profits would have been to the detriment of the company's business. The object of Clause 4 is to amend the law so as to provide that where such a company distributes less than sixty per centum of its assessable income, after deducting the amount of tax paid by the company, the Assessor may treat as distributed in the form of dividends either the whole of the undistributed profits, or such part of such profits as, in the opinion of the Assessor, could have been so distributed without detriment to the company's business.

3. Clause 3 effects a minor amendment in section 45 (4) of the principal Ordinance necessitated by the amendment made in section 20 of that Ordinance by the Income Tax (Amendment) Ordinance, No. 12 of 1942.

H. J. HUXHAM,
Colombo, 28th October, 1942. Financial Secretary.