



# THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

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## PART II.—LEGAL.

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

### DRAFT ORDINANCES.

#### MINUTE.

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

L. D.—O 4/43

#### An Ordinance to amend the War Damage (Business and Personal Movables) Ordinance, No. 9 of 1942.

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 War Damage (Business and Personal Movables) Amendment Ordinance, No. of 1943.

Short title.

2. Section 5 of the War Damage (Business and Personal Movables) Ordinance, No. 9 of 1942, (hereinafter referred to as "the principal Ordinance"), is hereby amended in sub-section (2) thereof, by the substitution in paragraph (a), for the words "public interest or, in the case of the personal movables scheme," of the words "public interest or".

Amendment of section 5 of Ordinance No. 9 of 1942.

3. The following section shall be inserted immediately after section 24 of the principal Ordinance and shall have effect as section 24A of that Ordinance:—

Insertion of new section 24A in the principal Ordinance.

24A. If any person, for the purpose of obtaining for himself or any other person any payment in respect of war damage under this Ordinance or under a policy issued under either of the schemes operated thereunder,—

Punishment for giving false information.

- (a) furnishes any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular; or
- (b) with intent to deceive produces, furnishes, sends or otherwise makes use of any book, account or other document, which is false in a material particular; or
- (c) with intent to deceive withholds any material information,

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

#### Objects and Reasons.

Section 5 (2) of the War Damage (Business and Personal Movables) Ordinance, No. 9 of 1942, authorises the Commissioner to make payments under the personal movables scheme at an earlier date than would be allowable under sub-section (1) of that section, if he is satisfied that such payments should be made to avoid undue hardship. The object of Clause 2 is to amend section 5 (2) so as to vest in the Commissioner a similar power in regard to the business movables scheme.

2. By Clause 3 it is proposed to insert in the principal Ordinance a new section providing penalties for giving false information. This section is similar to section 3 (1) of the War Damage (Amendment) Act, 1942, of the Imperial Parliament.

G. C. S. COREA,

Minister for Labour, Industry and Commerce.

Colombo, February 15, 1943

## MINUTE.

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

L.D.—O. 3/43.

**An Ordinance to provide for the allowance as revenue expenditure, for the purpose of income tax and excess profits duty, of certain items of capital expenditure incurred in the compulsory cultivation of land with foodstuffs.**

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 Compulsory Food Production (Tax Relief) Ordinance, No. of 1943.

Relief in cases of cultivation of foodstuffs by proprietors of estates.

2. (1) Where land which is not under permanent cultivation is cultivated with foodstuffs by the proprietor of an estate, in order to comply with the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates, all capital expenditure incurred for the purpose of the cultivation of foodstuffs on such extent of such land as does not in the aggregate exceed the extent of the area on which that proprietor, in his capacity as such, is so required to cultivate foodstuffs, shall, notwithstanding anything in the Income Tax Ordinance or the Excess Profits Duty Ordinance, No. 38 of 1941, but subject to the provisions of section 5, be deemed, for the purposes of each of those Ordinances to be outgoings and expenses incurred in the production of the profits or income of the agricultural undertaking carried on by that proprietor on that estate.

Cap. 188.

(2) Where, for the purpose of complying with the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates, foodstuffs are cultivated on any extent of land by the proprietor of an estate on which an agricultural undertaking for the production of coconuts is carried on, the business of the production of foodstuffs on such extent of land shall, notwithstanding anything in the Proviso to section 3 (1) of the Excess Profits Duty Ordinance, No. 38 of 1941, be deemed to be a business of the like nature as such agricultural undertaking, but shall not be deemed to be of the like nature as any other agricultural undertaking carried on by that proprietor.

Relief in cases of cultivation of foodstuffs by approved companies.

3. Where land which is not under permanent cultivation is cultivated with foodstuffs by any approved company, all capital expenditure incurred for the purpose of the cultivation of foodstuffs on such land shall, notwithstanding anything in the Income Tax Ordinance or the Excess Profits Duty Ordinance, No. 38 of 1941, but subject to the provisions of section 5, be deemed, for the purposes of each of those Ordinances to be outgoings and expenses incurred in the production of the profits or income of the agricultural undertaking carried on by such company on such land.

Relief in cases of cultivation of foodstuffs by approved undertakings.

4. (1) Where land which is not under permanent cultivation is cultivated with foodstuffs by any approved undertaking, and exemption from the liability to cultivate foodstuffs is, under the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates, for the time being in force in respect of any proprietor or proprietors by whom contributions have been made towards the capital of such undertaking, the following provisions shall, subject to the provisions of section 5, have effect, notwithstanding anything in the Income Tax Ordinance, or the Excess Profits Duty Ordinance, No. 38 of 1941 —

(a) There shall be computed the amount of all capital expenditure incurred by the undertaking for the purpose of the cultivation of foodstuffs on such extent of such land as does not, in the aggregate, exceed the extent of the area or areas in respect of which such exemption has been granted to such proprietor or all such proprietors, as the case may be.

(b) There shall be computed in the case of each such proprietor the amount which bears, to the amount of the capital expenditure computed under paragraph (a), the same proportion as the aggregate extent of the area in respect of which such exemption has been granted to that proprietor bears to the extent of land in respect of which the amount of such capital expenditure is computed under that paragraph.

(c) The amount computed under paragraph (b) in the case of each such proprietor shall be deemed, for the purposes of the Income Tax Ordinance and the Excess Profits Duty Ordinance, No. 38 of 1941, to be outgoings and expenses incurred in the production of the profits or income of that proprietor from the

business carried on by that undertaking and shall, accordingly, be deducted from the share of the divisible profit of that proprietor as ascertained under section 29 of the Income Tax Ordinance or added to the share of the divisible loss of that proprietor as so ascertained.

(2) Where any person has received or is entitled to receive a share in the profits of an approved undertaking, the share of such person in the profits or loss of such undertaking shall, for the purposes of the Excess Profits Duty Ordinance, No. 38 of 1941, be deemed to be profits or loss of the business of an agricultural undertaking separately carried on by such person; and such business shall, for the purposes of the proviso to section 3 (1) of that Ordinance, but subject to the provisions of sub-section (3) of this section, be deemed to be a business of a like nature as any other agricultural undertaking carried on by such person.

(3) Where an agricultural undertaking for the production of coconuts is carried on by any proprietor on any estate, and any exemption under the provisions of any written law requiring the compulsory cultivation of foodstuffs by proprietors of estates is for the time being in force in respect of that estate by reason of the fact that the proprietor has made a contribution towards the capital of any approved undertaking, the share of that proprietor which is deemed under sub-section (2) to be the profits or loss of a separate business carried on by him, or such part of that share as is attributable to the amount of the contribution required by such written law to have been made by him for the purpose of securing such exemption in respect of that estate, shall be deemed to be the profits or loss of a business of the like nature as the agricultural undertaking for the production of coconuts carried on on that estate, and not of the like nature as any other agricultural undertaking carried on by him.

5. (1) The provisions of section 2 or section 3 or section 4, as the case may be, shall not apply, and shall be deemed not to have applied at any time, in relation to any land, if the cultivation of foodstuffs on that land is discontinued before the expiry of a period of three years from the commencement of the clearing of that land for cultivation or if the land is sold or transferred before the expiry of that period.

Provisions applicable where cultivation of foodstuffs is discontinued. &c.

(2) Where any capital expenditure incurred in the clearing of any land and in the cultivation of foodstuffs thereon has, under the preceding provisions of this Ordinance, been treated as outgoings and expenses in the assessment of the profits or income of any person or of any business for any year of assessment or accounting period, and it appears to an Assessor that the cultivation of foodstuffs on that land has been discontinued, or that the land has been sold or transferred, before the expiry of a period of three years from the date of the commencement of the clearing of that land for cultivation, the Assessor may at any time assess such person at the amount or additional amount at which, according to the Assessor's judgment, such person would have been assessed if such expenditure had not been treated as outgoings or expenses as aforesaid, and such assessment may be made notwithstanding the expiration of the period of three years prescribed by section 65 of the Income Tax Ordinance, and the provisions of that Ordinance as to notice of assessment, appeal, and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder.

6. Where the capital expenditure incurred in any accounting period ending after the first day of January, 1942, for the purposes of the cultivation of paddy on any extent of land is, under any of the preceding provisions of this Ordinance, treated as outgoings and expenses in the ascertainment of the profits or income of any person or of any business, the provisions of the Excess Profits Duty Ordinance, No. 38 of 1941, shall, notwithstanding anything to the contrary in section 3 (1) of that Ordinance, apply in respect of that accounting period and of any subsequent accounting period to the agricultural undertaking for the production of paddy which is carried on on that extent of land, in like manner as those provisions apply to any other agricultural undertaking.

Application of Ordinance No. 38 of 1941 where relief is allowed in cases of paddy cultivation.

7. (1) This Ordinance shall, in its application in respect of the period commencing on the date on which the Food Production (Estates) Ordinance, No. 2 of 1943, came into operation, be read and construed as one with that Ordinance, and in its application in respect of any period prior to that date, be read and construed as one with the Food Production (Estates) Order, 1942.

Construction of Ordinance.

(2) Where any land is cultivated with foodstuffs, all expenditure incurred in the clearing, breaking-up, or preparation of such land for cultivation with foodstuffs, or in the planting of foodstuffs thereon, and all expenditure

incidental thereto, shall be deemed for the purposes of this Ordinance to be capital expenditure incurred for the purpose of the cultivation of foodstuffs on such land: Provided, however, that the cost of the purchase of any land shall not, for the purposes of this Ordinance, be treated as capital expenditure incurred in the cultivation of foodstuffs thereon.

Operation of  
Ordinance.

8. This Ordinance shall be deemed to have come into operation on the second day of February, 1942, being the date on which the Food Production (Estates) Order, 1942, came into force.

*Objects and Reasons*

The object of this Bill is to provide for the allowance as revenue expenditure, for the purposes of income tax and excess profits duty, of certain items of capital expenditure incurred in the compulsory cultivation of land with foodstuffs. The items which will be so allowed include the expenses incurred in the clearing and preparation of land for the purpose of the cultivation of foodstuffs and in the planting of foodstuffs, but will not include the price paid for any land purchased for that purpose (Clause 7 (2)).

2. In a case where the proprietor of an estate himself cultivates foodstuffs for the purpose of complying with the liability imposed on him by law so to do, the capital expenditure incurred on the extent of land on which compulsory cultivation is necessary will be treated as outgoings and expenses incurred in the production of the profits or income of the agricultural undertaking carried on by the proprietor of that estate. (Clause 2).

3. Where land is cultivated with foodstuffs by a company which is approved under the law relating to compulsory food production, all items of expenditure referred to above in paragraph 1, irrespective of the extent of the land so cultivated, will be allowed as outgoings and expenses. (Clause 3).

4. Where foodstuffs are cultivated by an undertaking which has been approved under the law relating to compulsory food production, each proprietor who is exempted from the liability to cultivate foodstuffs by reason of a contribution made by him to the capital of the undertaking, will be allowed to deduct from his share of the divisible profit of the undertaking a proportion of the expenditure incurred by the undertaking for the purpose of cultivating foodstuffs on his behalf on an extent of land not exceeding the extent on which he would, but for the exemption, have been required to cultivate foodstuffs (Clause 4).

5. The grant of relief under the provisions of the Bill in respect of any land will be subject to the condition that foodstuffs are cultivated on the land for a period of not less than three years. Accordingly, no relief will be allowed if the land is sold, or if the cultivation of foodstuffs is discontinued, before the end of that period, and new or additional assessments may be made in cases where there has been a breach of this condition after relief has been allowed. (Clause 5).

6. Agricultural undertakings for the production of paddy are at present exempted from the liability to excess profits duty; but since relief may be allowed under the Bill in cases where land has been cultivated with paddy for purposes of compliance with the law relating to compulsory food production, it is considered necessary that the undertaking for the production of paddy carried out on any land in respect of which such relief is allowed should be liable to excess profits duty. The necessary provision for this purpose is made in Clause 6.

7. A business for the production of coconuts cannot, under the Excess Profits Duty Ordinance, No. 38 of 1941, be treated as of the like nature as any other agricultural undertaking. In cases, however, where relief is allowed to a producer of coconuts in respect of expenditure incurred by himself or by an approved undertaking on his behalf in the cultivation of foodstuffs on any land, the business carried on on such land will be deemed to be a business of a like nature as that carried on by such producer (Clauses 2 (2) and 4 (3)).

8. Clause 8 of the Bill provides that the provisions of the new law will be deemed to have come into operation on February 2, 1942, which was the date on which the Food Production (Estates) Order, 1942, made under the Defence Regulations, came into force.

C. H. COLLINS,  
Acting Financial Secretary.

Colombo, 20th February, 1943.