



THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

No 9,175—SATURDAY, SEPTEMBER 25, 1943

Published by Authority

PART II.—LEGAL

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

PASSED ORDINANCES

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

No. 31 of 1943.

L D—O 78/38—M/L A—B 1972

An Ordinance to amend the Colombo Municipal Council (Constitution) Ordinance

Cap 194
Vol V, p 123

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 Colombo Municipal Council (Constitution) (Amendment) Ordinance, No 31 of 1943

Short title

2 Section 6 of the Colombo Municipal Council (Constitution) Ordinance (hereinafter referred to as the "principal Ordinance") is hereby amended by the repeal of sub-section (1) and the substitution therefor of the following sub section —

Amendment of section 6 of Chapter 194

"(1) The Council referred to in section 5 (1) shall consist of the Councillors elected in accordance with the provisions of this Ordinance to represent the wards of the Municipality specified in the First Schedule according to the numbers specified in the Second column of that Schedule "

3 Section 15 of the principal Ordinance is hereby amended as follows —

Amendment of section 15 of the principal Ordinance

(1) in sub-section (2), by the substitution, for paragraph (c), of the following paragraph —

"(c) is not the holder of any public office under the Crown in Ceylon, "

(2) by the insertion, after sub section (2), of the following new sub-section —

"(2A) Any person whose name is marked with the double qualification mark in any such new or revised list for the time being in force shall be qualified to be proposed for election or to be elected as a Councillor for the ward for which such list was prepared or for any other ward of the Municipality "

(3) by the repeal of sub-section (3),

(4) by the re-lettering of sub section (4) as paragraph (a) of that sub-section, and by the addition, at the end thereof, of the following new paragraph —

"(b) For the purposes of paragraph (c) of sub-section (2), the expression "the holder of any public office under the Crown" does not include—

- (i) a Justice of the Peace,
- (ii) a Justice of the Peace and Unofficial Magistrate,
- (iii) a Commissioner for Oaths,
- (iv) an Inquirer appointed under section 120 of the Criminal Procedure Code, or
- (v) the holder of any other public office declared by the Governor by Order published in the Gazette to be an office not included in that expression "

Cap 16

Insertion of new section 39A in the principal Ordinance

Councillors not to be polling agents

4 The following new section shall be inserted immediately after section 39 of the principal Ordinance and shall have effect as section 39A of that Ordinance —

39A No person who holds office for the time being as a Councillor or is an officer or servant of the Council shall be eligible to be appointed or to act as the polling agent of any candidate

Provided, however, that any person holding office for the time being as a Councillor may act as a polling agent at any election at which he is himself a candidate

Repeal of section 57 of the principal Ordinance

5 Section 57 of the principal Ordinance is hereby repealed

Amendment of section 60 of the principal Ordinance

6 Section 60 of the principal Ordinance is hereby amended as follows —

(1) in sub-section (3), by the substitution for the words "in each case," of the words "in each case and in accordance with the provisions of sub-section (4)," and

(2) by the substitution, for sub-section (4), of the following new sub-section —

"(4) (a) Where more than two candidates are proposed and seconded for election as Mayor or Deputy Mayor, and no candidate receives at the first ballot more votes than the aggregate of the votes received by the remaining candidates, the candidate who has received the lowest number of votes shall be excluded from the election, and the balloting shall proceed, the candidate receiving the lowest number of votes at each ballot being excluded from the election, until one candidate receives at a ballot more votes than the aggregate of the votes received by the remaining candidates at that ballot, or, as the case may be, until a ballot between two candidates only is held and completed

(b) Where at any ballot among three or more candidates any two or more of them receive an equal number of votes and one of the candidates has to be excluded from the election under paragraph (a), the determination, as between the candidates whose votes are equal, of the candidate to be excluded, shall be made by lot to be drawn in the presence of the Commissioner in such manner as he shall direct

(c) Where the number of votes cast at any ballot between two candidates is equally divided, and the addition of one vote would entitle one of the candidates to be elected as Mayor or Deputy Mayor, the determination of the candidate to whom the additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Commissioner in such manner as he shall direct "

Insertion of new sections 61A and 61B in the principal Ordinance

Mayor to be deemed to be the Mayor pending election of a new Mayor

7 The following new sections shall be inserted immediately after section 61 of the principal Ordinance and shall have effect respectively as sections 61A and 61B of that Ordinance —

61A In any case where the election of a Mayor of the Council is required by section 60 (1) or section 61 (1) to be held at the first meeting of the Council in any year, then, notwithstanding anything to the contrary in any other provision of this Ordinance, but subject as hereinafter provided, the person holding office as Mayor on the thirty-first day of December in the preceding year shall be deemed, for the purposes of this Ordinance or of any other written law, to be the Mayor of the Council until such election is held

Provided, however, that the preceding provisions of this section shall not be deemed to prejudice or affect the provisions of sub-section (2) of section 60

61B The Mayor and the Deputy Mayor of the Council shall each, during the tenure of his office, be *ex officio* a Justice of the Peace and Unofficial Magistrate for the district in which the Municipality is situated

Mayor and Deputy Mayor to be Justices of the Peace and Unofficial Magistrates

Minor and consequential amendments of the principal Ordinance

8 The provisions of the principal Ordinance which are mentioned in the first column of the Schedule to this Ordinance are hereby amended in the manner and to the extent specified in the corresponding entries in the second column of that Schedule

9 (1) Notwithstanding anything contained in the principal Ordinance, no member of a Municipal Council to which that Ordinance applies shall, by reason only of the fact that he held a prescribed public office, be deemed to have been disqualified or to have ceased to be qualified to be or to continue to be a Councillor at any time before the date of the commencement of this Ordinance, or to have vacated his seat in the Council at any such time by being so disqualified or by so ceasing to be qualified

Indemnity for members who held certain public offices

(2) No prosecution for any offence under section 19 of the principal Ordinance and no action or other legal proceeding under any other law shall be brought, instituted or maintained in any court in Ceylon for the enforcement of any penalty or penal consequences or for the recovery of any damages or for the declaration of any disqualification, incapacity or vacancy, against any member of any Municipal Council for or on account of or in respect of his having sat or voted in the Council or otherwise acted as a member thereof at any time before the date of the commencement of this Ordinance, after he ceased or is alleged to have ceased to be qualified or after he vacated or is alleged to have vacated his seat by reason of the fact that at such time as aforesaid he held a prescribed public office, and if any such prosecution, action or other legal proceeding has been, or shall hereafter be, brought or instituted, it shall be dismissed and made void, subject to such order as to costs as the court may think fit to make

(3) In this section, "prescribed public office" means the office of Justice of the Peace, or of Justice of the Peace and Unofficial Magistrate, or of Commissioner for Oaths, or of Inquirer under section 120 of the Criminal Procedure Code

Cap 16

10. Until the expiration of the term of office of the Councillors of any Municipal Council who hold office at the date of the commencement of this Ordinance, the provisions of the principal Ordinance shall, in their application in the case of that Council, continue to have effect as though that Ordinance had not been amended in the manner provided by sections 2, 3 (3), 5, and 8 of this Ordinance and by the Schedule thereto

Transitory provisions as to effect of specified amendments

SCHEDULE

(Section 9)

Column I	Column II
Section of principal Ordinance	Amendments
1 5	In sub section (3), the word "nominated" shall be omitted
*2 15	In the marginal note, the words "elected and nominated" shall be omitted
3 16	For all the words from "The seat" to "vacant", substitute the words "The seat of a member in the Council shall become vacant"
4 18	(1) For the words "an elected or a nominated Councillor", substitute the words "a Councillor" (2) The words "as an elected or as a nominated Councillor" shall be omitted
5 19	(1) For the words "his election or nomination", substitute the words "his election" (2) For the words "being elected or nominated", substitute the words "being elected"
6 27	(1) In sub section (1), for the words "elected members", substitute the word "members" (2) In sub section (2), for the words "an elected member", substitute the words "a member"
7 55	In sub-section (1)— (a) the words "or nominated", wherever they occur in that sub section, shall be omitted, and (b) the words "or nomination, as the case may be," shall be omitted
8 58	Section 58 shall be repealed
9 59	Section 59 shall be repealed
10. 60	(1) In sub-section (1), the words "elected and nominated" shall be omitted (2) In sub section (3), the words "elected or nominated", wherever they occur in that sub-section, shall be omitted.

Column I	Column II
Section of principal Ordinance	Amendments
11 61	In sub section (1), the words "elected and nominated" shall be omitted
12 62	For section 62, substitute the following — Eligibility for re-election — Every Councillor elected in accordance with the provisions of this Ordinance shall, upon the expiry of his term of office, be eligible for re-election as a Councillor unless he has ceased to be duly qualified
13 63	The words "or nominated" shall be omitted
14 64	(1) In sub section (1)— (a) the words "or nomination" shall be omitted, and (b) the words "or nominated" shall be omitted (2) In sub section (2), for the words "an elected Councillor", substitute the words "any Councillor" (3) Sub-section (3) shall be repealed
15 65	(1) For the words "any elected Councillor or nominated Councillor", substitute the words "any Councillor" (2) For the words "the elected or nominated Councillors", substitute the words "the Councillors"
16 88	(1) In sub section (2) (b), the words "and nominated" shall be omitted (2) In sub section (4), the words "and nomination" shall be omitted
17 102	In the marginal note, the words "Nomination of new Councillors" shall be omitted
18 108	The following new definition shall be substituted for the definition of "Councillor" — "Councillor" means an elected member of the Council,

Passed in Council the Third day of August, One thousand Nine hundred and Forty-three

D C R GUNAWARDANA,
Clerk of the Council

Assented to by His Excellency the Governor the Seventeenth day of September, One thousand Nine hundred and Forty-three

H A C DOBBS,
Acting Secretary to the Governor.

DRAFT ORDINANCES

MINUTE

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

L D—O 40/43

An Ordinance to amend the Thoroughfares Ordinance.

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 Thoroughfares (Amendment) Ordinance, No of 1943

Amendment of section 71 of Chapter 148

2 Section 71 of the Thoroughfares Ordinance is hereby amended in the Proviso to paragraph (2) of that section, by the substitution for the words "a further sum of twelve cents", of the words "a further sum not exceeding thirty cents"

Objects and Reasons

The object of this Bill is to amend section 71 of the Thoroughfares Ordinance in order to provide that when any straying animal is seized under that section, a fee not exceeding thirty cents will be payable by the owner of the animal in respect of the cost of feeding the animal while it is in custody

J L KOTELAWALA,
Minister for Communications and Works

Colombo, 22nd September, 1943