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EXTRAORDINARY

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DRAFT ORDINANCES.

MINUTE.

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

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.

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. 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. Road service licences required to authorise use of omnibuses.

(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) For the purposes of this section an omnibus 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 timetable 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, including transport by rail, water or air;
- (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.

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 be available for inspection 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) 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.

(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

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—

- (a) 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 ; and
- (b) the holder of the road service licence issued under this Ordinance in respect of that route has refused or failed to comply with any condition referred to in section 6 (1) (h) in relation to the carriage of newspapers published by that company ; and
- (c) such refusal or failure is not due to any act or default on the part of the company,

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.

10. Every road service licence issued under this Ordinance shall be in force for such period 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 :

Duration and effect of licences.

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 :

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.

(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.

Appeals against decisions of the Commissioner.

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.

(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) 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.

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

- (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) 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.

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

Powers of
Tribunals
on appeals.

Offences and
penalties.

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 Governor 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 by the Governor;
- (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 by the Governor.

(3) Every Order made under sub-section (2) shall upon publication in the *Gazette* have the force of law and be valid and effectual as though it were herein enacted.

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

19. 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 for which a licence under that Ordinance is not in force.

20. 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 :

Amendments of
Ordinance
No. 45 of 1938.

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.

21. 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 20 of this Ordinance.

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, and except where the public interest otherwise requires, 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 holders of the majority 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 ; and the amount

so ordered to be paid may be recovered on application made to the Magistrate's court having jurisdiction in the place where the applicant is resident or carries on business, in like manner as a fine imposed by the court notwithstanding that such amount may exceed the amount of the fine which that court may in the exercise of its ordinary jurisdiction impose, and shall when recovered, be paid to the person to whom it is due.

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. 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.
3. 29	In sub-section (6)— (a) for the words "an omnibus or lorry", substitute the words "a lorry"; (b) for the words "the omnibus or lorry", substitute the words "the lorry".
4. 31	(1) In paragraph (iv) of the Proviso to sub-section (1), for the words "an omnibus or lorry", substitute the words "a lorry". (2) In sub-section (2), the words "an omnibus or" shall be omitted.
5. 43	(1) In sub-section (1), for the words "an omnibus or lorry", substitute the words "a lorry". (2) Sub-section (2) shall be repealed. (3) In sub-section (5), the words "omnibus or", wherever those words occur collectively therein, shall be omitted. (4) In the marginal note, the words "omnibus or" shall be omitted.
6. 44	(1) For sub-section (1), substitute the following:— " (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." (2) In sub-section (2), the words "omnibus or", wherever they occur collectively therein, shall be omitted. (3) In the marginal note, the words "omnibuses and" shall be omitted.
7. 45	(1) In paragraph (a) of sub-section (1), the words "an omnibus or" shall be omitted. (2) Sub-section (2) shall be repealed.

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
8. 46	<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	Sub-section (1) shall be repealed.
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	In Sub-section (1), the words “an omnibus or” shall be omitted.
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> <p>(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”.</p>
14. 52	<p>(1) The words “an omnibus or” shall be omitted.</p> <p>(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”.</p>
15. 53	<p>(1) For the words “an omnibus or a lorry” wherever those words occur collectively in this section, substitute the words “a lorry”.</p> <p>(2) For the words “the omnibus or lorry” wherever those words occur collectively in this section, substitute the words “the lorry”.</p> <p>(3) In paragraph (a) of sub-section (2), for the words “that omnibus or lorry”, substitute the words “that lorry”</p> <p>(4) In paragraph (c) of sub-section (2), the words “as the case may be” shall be omitted.</p>
16. 54	<p>(1) Sub-section (1) shall be repealed.</p> <p>(2) In the marginal note the words “routes or” shall be omitted.</p>
17. 55	<p>(1) Paragraph (a) of sub-section (1) shall be omitted.</p> <p>(2) In the marginal note, the words “approved routes and” shall be omitted.</p>
18. 55A	<p>(1) Sub-section (1) shall be repealed.</p> <p>(2) Substitute, for the marginal note, the following:—</p> <p>“Exchange of areas of operation of lorries in the same ownership”.</p>
19. 56	Section 56 shall be repealed.
20. 57	Section 57 shall be repealed.

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Section of Ordinance.	Amendments.
21. 58	Section 58 shall be repealed.
22. 58A	<p>(1) Sub-section (1) shall be repealed.</p> <p>(2) For sub-sections (3) to (6), substitute the following sub-sections:—</p> <p>(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.</p> <p>(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.</p> <p>(b) No licence for a new lorry shall be issued under this section by any licensing authority—</p> <p>(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</p> <p>(ii) unless payment is made of the duty payable under section 32 on the licence for the new lorry.</p> <p>(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.</p> <p>(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.</p>
23. 58B	<p>(3) In the marginal note the words "omnibuses or" shall be omitted.</p> <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:</p> <p>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 hereinbefore 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" shall be omitted.</p>

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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> <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>

Column I.	Column II.
<i>Section of Ordinance.</i>	<i>Amendments.</i>
29. 116	Sub-section (1) shall be repealed.
30. 117	(1) In sub-section (1)— (a) for the words “ registered owner of an omnibus or lorry ”, substitute the words “ registered owner of a lorry ”; (b) for the words “ that omnibus or lorry ”, substitute the words “ that lorry ”. (c) paragraphs (a) and (b) shall be omitted. (2) In sub-section (2), for the words “ passongers or goods, as the case may be,” substitute “ passengers ”. (3) Sub-section (3) shall be repealed. (4) In the marginal note, the words “ omnibuses and ” shall be omitted.
31. 118	In sub-section (1), for all the words from “ officer by whom—” to the end of that sub-section, substitute the following :— “ 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.”
32. 125	In sub-section (1), paragraph (d) shall be omitted.
33. 159	(1) In sub-section (1)— (a) for all the words from “ Where any court ” to “ driver, conductor or owner,” substitute the following :— “ 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,” ; (b) the words “ omnibus or ” wherever they occur collectively in that sub-section, shall be omitted. (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 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.”

Objects and Reasons.

The object of this Bill is to introduce the necessary legislation to give effect to the motion passed on July 29, 1942, by which the State Council approved certain recommendations of the Executive Committee of Local Administration for the reorganisation of bus services. Those recommendations were that bus services shall not be operated except under exclusive licence, that compensation should be granted to persons presently operating buses who are displaced in consequence of the new scheme, and that, in regard to the issue of licences, preference should be given to a company which comprises persons who at present operate bus services on the route in question.

2. Clause 2 of the Bill will prohibit the use of omnibuses for hire or reward after January 1, 1943, except under the authority of road service licences. The Commissioner will be empowered to issue, where practicable, a road service licence for any route to come into force before January 1, 1943, and, in such a case, the holder of the licence will have an exclusive right to operate along that route from the time the licence comes into force.

Clause 4 provides that, in dealing with applications for licences and in deciding upon the conditions to be attached to licences, the Commissioner should, *inter alia*, have regard to the extent to which the needs of the proposed routes are already adequately served, to the co-ordination of all forms of passenger transport and to the financial position of the applicant.

Clause 6 deals with the conditions which may be attached to a licence, and it is contemplated that the Commissioner will, generally, specify the fares to be charged on each omnibus service and prescribe the time-table which must be observed in the operation of the service.

Provision is made in Clause 5 for the Commissioner to grant licences authorising the provision of omnibus services for special occasions, such as festivals, fairs and excursions.

3. Clause 7 of the Bill sets out the principle that the right to operate omnibus services on any particular route should be given only to one person. Provision is, however, made to the effect that where any section of a highway is common to two or more routes the holders of licences authorising the provision of services which are substantially different in nature and extent may be allowed to use the common section of the highway. Clause 7 (2) also contains special provision designed to permit the Commissioner to allow a newspaper company which, prior to September 1, 1942, provided a special service on any route for the carriage and distribution of newspapers to continue to operate on that route for the same purpose, if it is found impossible or impracticable to require the holder of the exclusive licence for that route to arrange for the carriage and distribution of the newspapers.

4. Clause 12 of the Bill confers on the Commissioner the power to revoke or suspend a road service licence in the event of a breach of any of the conditions attached to the licence. It is provided, however, that this power is not to be exercised except in serious circumstances, such as the repetition of the breach of conditions or the danger to the public involved in the breach.

5. Appeals will lie to a Tribunal of Appeal constituted under the Motor Car Ordinance, No. 45 of 1938, in certain cases where the Commissioner has refused to grant or renew a licence, or where he has attached conditions to a licence or revoked or suspended the licence. (Clause 13). If, in the case of the first issue of licences, there are two or more applications in respect of the same route, any aggrieved applicant may appeal against the refusal of his application by the Commissioner; and, in such a case, the Tribunal of Appeal will, if it allows the appeal, direct that the licence, if any, issued by the Commissioner in respect of the same route to any other applicant should be revoked. A Tribunal of Appeal will also have power to revoke or alter conditions attached to a licence by the Commissioner or to set aside an order made by the Commissioner suspending or revoking a road service licence.

6. Clause 18 of the Bill declares that the provisions of the First Schedule 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.

Paragraph 1 of the First Schedule sets out the order of preference which shall be observed by the Commissioner in making his decisions upon such applications. Preference will, generally speaking, be given to an application from a company or partnership comprising the holders of all, or the majority of, the licences for the time being in force in respect of the particular route under the Motor Car Ordinance, No. 45 of 1938. Paragraph 2 of the Schedule provides that a road service licence will not be issued in respect of any route to any applicant unless the holders of existing licences in respect of that route, who will be displaced, have been paid compensation, or have consented to the issue of the licence to that applicant, or unless the applicant enters into a written undertaking to pay to each such holder as compensation an amount to be fixed by a Tribunal of Appeal. Compliance with the undertaking will be secured by means of an application to a Tribunal of Appeal to determine the amount of the compensation, and it is provided that the amount can be recovered through a Magistrate's Court in the same manner as a fine.

Clause 18 (2) will enable the Governor, by Order published in the *Gazette*, to make such provision as may be necessary or expedient during the transitional period for the purpose of providing for unforeseen or special circumstances; the Governor may in such an Order, *inter alia*, specify the matters to be taken into consideration by a Tribunal of Appeal in determining the amount of compensation to be paid to the holders of existing licences.

7. Clause 20 of the Bill and the Second Schedule will effect in the Motor Car Ordinance, No. 45 of 1938, a series of amendments which are consequential upon the provisions of

the Bill. The principal purpose of the amendments is to remove from the Motor Car Ordinance the special provisions which are now in force relating to the procedure to be adopted in licensing omnibuses. The holder of a road service licence granted by the Commissioner under the new law will have to obtain for each of his omnibuses an omnibus licence under the Motor Car Ordinance, No. 45 of 1938, but no special procedure will be applicable to the issue of omnibus licences under that Ordinance, and the necessary licence will be issued on payment of the prescribed fee if the omnibus has been certified by an examiner to be fit to be used as such.

S. W. R. D. BANDARANAIKE,
Minister for Local Administration.
Colombo, 16 September, 1942.