



# THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

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## PART II.—LEGAL.

### 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:—

1. This Ordinance may be cited as the Stores for Volunteer Forces (Exemption from Customs Duty) Ordinance, No. of 1942.

Short title.

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—

Exemption from Customs duty.

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.

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*.

Power to amend First Schedule or Second Schedule.

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*.

Duration of Ordinance.

#### 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)
Chapter 188. (Volume IV., page 609).	<b>An Ordinance to amend the Income Tax Ordinance.</b>	
Short title.	BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—	
Amendment of section 7 of Chapter 188.	1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance, No. of 1942.	
	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 <i>Gazette</i> 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 (h) 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.

Cóloombo, 28th October, 1942.

H. J. HUXHAM,  
Financial Secretary.