



4.3  
7

# THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

No. 9,573 - MONDAY, JULY 1, 1946.

Published by Authority.

## 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. 15/46/M.L.A.—BB. 883K.

#### An Ordinance to amend the Urban Councils Ordinance, No. 61 of 1939.

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 Urban Councils (Amendment) Ordinance, No. of 1946.

Short title.

2. Section 31 of the Urban Councils Ordinance, No. 61 of 1939, (hereinafter referred to as the "principal Ordinance") is hereby amended by the insertion, immediately after sub-section (2) thereof, of the following new sub-section:—

Amendment of section 31 of Ordinance No. 61 of 1939.

"(2A) If the effect of an Order under section 30 is to abolish any electoral division which was in existence before the date of the Order, the member elected for that division shall thereupon vacate his office, notwithstanding anything in section 16."

3. Section 87 of the principal Ordinance is hereby amended as follows:—

Amendment of section 87 of the principal Ordinance.

(1) by the insertion, immediately after sub-section (4), of the following new sub-section:—

"(4A) Every award or agreement made or entered into, as the case may be, under sub-section (3) in respect of the value of any building, boundary wall or gateway or part thereof, shall specify the particular paragraph or paragraphs of sub-section (4) in accordance with which the value aforesaid was fixed or determined."; and

(2) in sub-section (5), by the substitution, for all the words from "may be verified;" to the end of that sub-section, of the words "may be verified."

4. Section 89 of the principal Ordinance is hereby amended in sub-section (1), by the substitution, for all the words from "shall be the value thereof" to the end of that sub-section, of the words "shall be determined in accordance with the provisions of section 91."

Amendment of section 89 of the principal Ordinance.

5. Section 91 of the principal Ordinance is hereby amended in sub-section (1) as follows:—

Amendment of section 91 of the principal Ordinance.

(1) by the substitution, for paragraph (a), of the following new paragraph:—

"(a) where the whole of the building or of any boundary wall or gateway is situated within the building limit, the value assigned to the building, boundary wall or gateway, as

distinct from the land acquired, shall be the value recorded under section 87 at the time of the demarcation of the building limit or the market value of the building, boundary wall or gateway at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such market value shall be the difference between the market value of the building, boundary wall or gateway together with the land attached thereto, at the time of the acquisition, and the market value at that time of the land so attached as distinct from the building, boundary wall or gateway;” and

(2) by the insertion, immediately after paragraph (a), of the following new paragraphs:—

“(aa) where only a part of the building or of any boundary wall or gateway is situated within the building limit and the value recorded under section 87 is the value of the entire building, boundary wall or gateway in accordance with sub-section (4) (a) of that section, the value assigned to that part of the building, boundary wall or gateway, as distinct from the land acquired, shall be the value so recorded or the market value of the entire building, boundary wall or gateway at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such market value shall be the difference between the market value of the entire building, boundary wall or gateway together with the land attached thereto, at the time of the acquisition, and the market value at that time of the land so attached as distinct from the entire building, boundary wall or gateway;

(ab) where only a part of the building or of any boundary wall or gateway is situated within the building limit and the value recorded under section 87 is the value of that part in accordance with sub-section (4) (b) of that section, the value assigned to that part of the building, boundary wall or gateway, as distinct from the land acquired, shall be the value so recorded or the value of the part of the building, boundary wall or gateway within the building limit at the time of the acquisition, whichever is the less, and for the purpose aforesaid, such value shall be the aggregate of—

(i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway at that time; and

(ii) the estimated cost, in the case of a building, of adapting at that time the part of the building which will then remain to the purpose for which the building is used at that time, and in the case of a boundary wall or gateway, of completing at that time such additions or repairs as may be necessary;”.

Amendment of section 166 of the principal Ordinance.

6. Section 166 of the principal Ordinance is hereby amended in sub-section (2), by the substitution, for the words “fifty rupees”, of the words “two hundred and fifty rupees”.

Amendment of section 172 of the principal Ordinance.

7. Section 172 of the principal Ordinance is hereby amended in sub-section (1) thereof by the insertion, immediately after paragraph (d), of the following new paragraph:—

“(dd) all sums which the Council may, with the approval of the Executive Committee, decide to award by way of *ex gratia* payments to any persons or the dependants of any persons (other than servants of the Council) who receive injuries or sustain any other damage or are killed in circumstances which, being due to an accident or to a defect in any machinery, plant or equipment used by the Council or to the unauthorised or unlawful interference of a third party, are only indirectly attributable to the exercise of any of the powers vested in the Council or its officers or servants by or under this Ordinance; and”.

8. Section 195 of the Principal Ordinance is hereby amended as follows :—

Amendment of section 195 of the principal Ordinance.

(1) in sub-section (3) thereof, by the substitution for the words "the Chairman" of the following :—

"the Commissioner or any person authorised in writing in that behalf by the Commissioner," ;

(2) in sub-section (5) thereof—

(a) by the substitution for the words "the Chairman of the Urban Council" of the words "the Commissioner", and

(b) by the substitution for the words "the duty of the Chairman" of the words "the duty of the Commissioner or any person authorised in writing in that behalf by the Commissioner" ;

(3) by the insertion, immediately after sub-section (5) thereof, of the following new sub-section :—

"(6) Every sum paid or recovered under this section, other than a sum paid or recovered as costs and expenses incurred in the enforcement of any disallowance or surcharge, shall be credited to the local fund of the Council."

9. Section 246 of the principal Ordinance is hereby amended as follows :—

Amendment of section 246 of the principal Ordinance.

(1) by the substitution, for sub-section (2) thereof, of the following new sub-section :—

"(2) With effect from the date on which an Urban Council is constituted for any town referred to in sub-section (1), there shall be deemed to be transferred to that Council—

(a) all such property, other than the funds, of the local authority referred to in that sub-section, as may be situated within the town ;

(b) the whole of the funds of that local authority, or in any case where the town comprises a part only of the administrative area of that authority, such part of the funds aforesaid as the Minister may determine ; and

(c) all the rights, powers, duties, debts, liabilities and obligations of that authority, in so far as they relate to any area within the town." ; and

(2) in sub-section (4) thereof, by the substitution for the words "any Local Board", of the following :—

"any Municipal Council, Town Council, Local Board, Village Committee,".

10. The Eighth Schedule to the principal Ordinance is hereby amended by the insertion, immediately after item 5 thereof, of the following new items :—

Amendment of the Eighth Schedule to the principal Ordinance.  
Cap. 193.

"(6) The Municipal Councils Ordinance, and all Ordinances passed in amendment thereof.

(7) The Village Communities Ordinance, and all Ordinances passed in amendment thereof.

Cap. 195.

(8) The Town Councils Ordinance, No. 3 of 1946, and all Ordinances passed in amendment thereof."

#### *Objects and Reasons.*

Section 30 of the Urban Councils Ordinance, No. 61 of 1939, in making provision for the variation of the limits of a town or of any electoral division of a town did not contemplate the possibility that any such town or part of a town would ever have to be taken away from the operation of that Ordinance and relegated to a lower status. Provision was, therefore, not included for terminating the tenure of office of the member of an electoral division which is taken away from the town and thereby ceases to be an electoral division. A case has now arisen, however, which makes such provision necessary and accordingly it is proposed in Clause 2 of this Bill to add to section 31 a new sub-section automatically bringing the term of office of a member to an end.

Every Urban Council is required by section 87 of the Urban Councils Ordinance, No. 61 of 1939, to record, within a specified time, in the office of the Council, the value of every building, boundary wall or gateway, or part thereof situated within the building limit of any road. Although the value so recorded is the value of the building, boundary wall or gateway at the time of the demarcation of the building limit, section 91 of the Ordinance, which lays down the principles of assessing land in the event of any land situated within the building limit being acquired for the purpose of widening the road, provides no allowance for any depreciation in the value of the building, boundary wall or gateway, or part thereof in the

interval between the demarcation of the building limit and the acquisition, and prescribes that the compensation payable in such case for the building, boundary wall or gateway shall be the value recorded under section 87. It is proposed that this anomaly should be rectified immediately, as otherwise Urban Councils may be obliged to pay, in respect of such buildings, boundary walls or gateways, compensation in excess of their value at the time of acquisition. Clauses 3, 4 and 5 set out the amendments necessary to give effect to that proposal.

An Urban Council is prohibited by section 166 of the Ordinance from prescribing by by-law a fine of more than fifty rupees in respect of any contravention of a by-law made by the Council. As by-laws are framed by Urban Councils on important subjects like public health and pure food, it is felt that the maximum fine permitted by the Ordinance is inadequate and should be increased. It is therefore proposed in Clause 6 to increase that maximum to two hundred and fifty rupees.

Section 172 of the Ordinance does not give an Urban Council power to pay compensation to members of the public in the event of injury or death due to accidents such as those caused by the supply lines of the Council's electricity scheme. It is, therefore, proposed in Clause 7 of the Bill to amend that section so as to enable compensation to be paid in such cases with the approval of the Executive Committee.

As the existing provisions of section 195 of the Ordinance as to the recovery of the amounts surcharged by the auditor do not deal with the case where the Chairman of a Council is himself surcharged, it is proposed in Clause 8 to amend that section and to vest in the Commissioner of Local Government the power to recover the amount of surcharge in all cases and to credit the amount recovered to the local fund of the Council.

The object of Clause 9 is to recast sub-section (2) of section 246 of the Ordinance so as to make it clear that where only a part of the administrative area of any other local authority is taken over by an Urban Council, only a proportionate part of the moneys and funds of that local authority is to be transferred to the Urban Council.

The amendment to be made in the Eighth Schedule to the Ordinance by Clause 10 is of a consequential nature.

S. W. R. D. BANDARANAIKE,  
Minister for Local Administration.

Colombo, June 25, 1946.