



# 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. 28/46.

M. L. A.—D.107/1.

#### An Ordinance to amend the Local Government Service Ordinance, No. 43 of 1945.

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 Local Government Service Amendment Ordinance, No. of 1946.

Short title.

2. Section 9 of the Local Government Service Ordinance, No. 43 of 1945, (hereinafter referred to as "the principal Ordinance"), is hereby repealed and the following new section substituted therefor :—

Substitution of new section for section 9 of Ordinance No. 43 of 1945.

9. The Commission may appoint, in addition to the Secretary and the Accountant referred to in section 8, such other officers and servants as it may deem necessary for the purpose of carrying out the provisions of this Ordinance. Every officer or servant so appointed shall receive such remuneration as may be fixed by the Commission.

Other officers and servants.

3. Section 10 of the principal Ordinance is hereby amended by the substitution, for all the words from "The Secretary" to "section 9", of the following :—

Amendment of section 10 of the principal Ordinance.

"The officers and servants appointed under section 8 and under section 9 shall constitute the staff of the Commission, and every such officer or servant".

4. Section 11 of the principal Ordinance is hereby amended as follows :—

Amendment of section 11 of the principal Ordinance

(a) by the re-numbering thereof as sub-section (1) of section 11 ; and

(b) by the addition, immediately after the re-numbered sub-section (1), of the following new sub-section :—

"(2) The Commission may authorise the Chairman, subject to such general or special conditions as it may from time to time determine by resolution—

(a) to exercise in relation to the staff of the Commission all the powers exercisable by the Head of a Department, in relation to public servants in that Department, under the Public Service Regulations and the Financial Regulations of the Government which are for the time being in force ;

(b) to call for applications for vacant posts, obtain any information or explanation, initiate any correspondence or any inquiry or other proceedings, or take any other preliminary step or measure which may, in his opinion, be expedient or necessary for the proper consideration and determination of any matter by the Commission ; and

(c) generally to deal with all matters of routine and details of administration."

Insertion of new sections 11A and 11B in the principal Ordinance.

Pensions, &c. to staff of Commission.

5. The following new sections shall be inserted immediately after section 11, and shall have effect as sections 11A and 11B, of the principal Ordinance :—

11A. (1) (a) The Commission may, by resolution approved by the Financial Secretary, declare any post on its staff of officers and servants to be a pensionable post or declare any such post to be pensionable so long as it is held by any person specified by name in the resolution, and may on the retirement of the holder of each such post award him a pension or gratuity :

Provided that every person who is transferred or seconded to the staff of the Commission from any pensionable post in the service of the Government or of any local authority shall, during his tenure of any office on the staff of the Commission, be deemed to be the holder of a pensionable post, for all the purposes of this sub-section, and a resolution as aforesaid shall not be necessary in any such case.

(b) Every pension or gratuity awarded under this sub-section to an officer or servant retiring from the staff of the Commission shall be computed and paid by the Commission in accordance with the provisions (by whatever name called) whereby the grant of pensions, gratuities or allowances to public servants retiring from the service of the Government is regulated ; and for this purpose any option or right of election reserved to such public servants by any of those provisions may in the like circumstances be exercised in the like manner by such retiring officer or servant of the Commission.

(c) Service under the Government or a local authority shall, if it precedes and is continuous with service on the staff of the Commission, be taken into account in the computation of qualifying service for any pension or gratuity under this sub-section and in the computation of the amount of the pension or gratuity to be awarded.

(2) In the case of each post on the staff of the Commission which has not been declared or is not deemed to be a pensionable post under sub-section (1), the officer or servant appointed thereto shall, so long as he is the holder thereof, contribute to the Provident Fund established under Part III ; and the provisions of that Part and the regulations thereunder shall apply to such officer or servant in like manner as if he were a member of the local Government Service.

Provision for widows and orphans of staff of Commission.

Cap. 296.

11B. (1) The Commission may, by resolution approved by the Financial Secretary, declare that any person who is the holder of a post on the staff of the Commission shall be deemed to be a public officer within the meaning of the Widows' and Orphans' Pension Fund Ordinance ; and where a declaration is made by resolution as aforesaid in respect of any person, the provisions of that Ordinance shall, with effect from the date of such resolution or such other date as may be specified therein, apply in the case of that person as though he were a public officer within the meaning of that Ordinance :

Provided that every person seconded or transferred to any post on the staff of the Commission from any post in the service of the Government at any time when he is a contributor under the Widows' and Orphans' Pension Fund Ordinance shall, while he holds that or any other post on the staff of the Commission, be deemed to be a public officer for all the purposes of that Ordinance and be entitled to continue to be a contributor thereunder ; and a resolution as aforesaid shall not be necessary in any such case.

(2) Every person holding a post on the staff of the Commission in respect of whom a declaration has not been made by resolution under sub-section (1) shall, so long as he continues to be on the staff of the Commission, be a contributor to the Widows' and Orphans' Pension Fund established under this Ordinance, with effect from the date of the establishment of that Fund or the date of his appointment to the staff of the Commission, whichever is the later ; and the provisions of this Ordinance and of any regulations thereunder relating to that Fund shall apply in the case of each such person in like manner as if he were a member of the Local Government Service :

Provided that the preceding provisions of this sub-section shall not apply in the case of any person who is exempted therefrom by a resolution of the Commission relating specially to him or generally to any class, grade or description of officers or servants to which he belongs.

Amendment of section 14 of the principal Ordinance.

6. Section 14 of the principal Ordinance is hereby amended by the substitution, for the words " Urban Councils ", of the words " Urban Councils, Town Councils, "

7. Section 21 of the principal Ordinance is hereby amended by the insertion therein, immediately after sub-section (2), of the following new sub-section :—

Amendment of section 21 of the principal Ordinance.

“(3) Nothing in the Wages Boards Ordinance, No. 27 of 1941, or in any Ordinance amending that Ordinance shall apply or be construed or deemed to apply to or in relation to or in the case of any person who is a member of the Service, notwithstanding that he is employed for the time being under a local authority in or in connexion with any service or undertaking which partakes of the nature of a trade or industry.”

8. Section 23 of the principal Ordinance is hereby amended by the insertion therein, immediately after sub-section (2), of the following new sub-section :—

Amendment of section 23 of the principal Ordinance.

“(3) Nothing in the preceding provisions of this section shall be deemed to render it unlawful for the Commission to commence proceedings in accordance with those provisions, or to continue and complete as far as possible in accordance with those provisions any pending proceedings, against any member of the service in respect of any misconduct or breach of discipline or other cause of complaint which may have occurred or arisen before the appointed date.”

9. The following new section shall be inserted immediately after section 58, and shall have effect as section 58A, of the principal Ordinance :—

Insertion of new section 58A in the principal Ordinance.

58A. No action, prosecution or other proceeding, whether civil or criminal, shall be instituted or maintained against any individual member of the Commission in respect of any decision taken or act done or omitted by him in his capacity as such member or by the Commission in its corporate capacity.

Immunity of individual members of Commission.

10. Section 59 of the principal Ordinance is hereby amended in the definition of “local authority” set out therein, by the substitution for the words “Urban Councils” of the words “Urban Councils, Town Councils,”.

Amendment of section 59 of principal Ordinance.

11. The First Schedule to the principal Ordinance is hereby amended in Part I thereof, by the omission from each of the paragraphs which commence with the words “Every other post”, of all the words from “which has been” to “required by law”.

Amendment of First Schedule to the principal Ordinance.

12. The amendments made in the principal Ordinance by this Ordinance shall be deemed for all purposes to have taken effect on the first day of April, 1946.

Retrospective effect of amendments.

#### *Objects and Reasons.*

The object of this Bill is to introduce certain amendments which have been found to be necessary in the Local Government Service Ordinance, No. 43 of 1945.

2. There is at present an apparent inconsistency between the provisions of section 8 and those of section 9; and the latter section is also silent on the subject of the salary and wages of the officers and servants referred to therein. It is proposed in Clause 2 that a new section should be inserted in the Ordinance in place of the existing section 9. This new section will make it clear that the remuneration of the subordinate officers and servants is to be determined by the Local Government Service Commission in its discretion.

3. As the provisions of the Ordinance now stand, the Commission has itself to deal with numerous matters of detail and administration, and has no power to delegate any of its functions to any other officer or person. The power to delegate minor functions to the Chairman will be conferred on the Commission by the new sub-section (2) which is to be inserted in section 11 by Clause 4.

4. Clause 5 deals with the principal object of this Bill. The provisions in the Ordinance relating to Pensions and Provident Funds apply only to members of the Local Government Service. The persons on the staff of the Commission do not belong to this Service, nor are they entitled to be regarded as public servants for the purposes of the Minute on Pensions, the Public Servants' Provident Fund Ordinance, No. 18 of 1942, or the Widows' and Orphans' Pension Fund Ordinance. It is very necessary that provision should be made for securing to them rights to pensions or gratuities or to benefits under a provident scheme when they retire from the staff of the Commission. It is also necessary to make it possible for such of those officers as may have been transferred from the Public Service to the service of the Commission to continue to contribute to the Widows' and

Orphans' Pension Fund maintained by the Government and for other officers to join the similar Fund which is to be established under the Ordinance for the benefit of the widows and orphans of members of the Local Government Service. The new sections 11A and 11B which are to be inserted in the Ordinance by Clause 5, contain all the provisions that are required in this connexion

5. The object of the amendments in Clauses 6 and 10 is to include the newly established Town Councils in the scheme of local authorities to which the provisions of the Ordinance apply.

6. The Wages Boards Ordinance, No. 27 of 1941, would ordinarily be applicable in the case of certain classes or groups of members of the Local Government Service. As it is felt that the operation of that Ordinance should not be extended at all to any part of that Service, the necessary amendment is set out in Clause 7.

7. Doubts have been expressed as to the right or power of the Local Government Service Commission to commence or to continue disciplinary proceedings against members of the Service in respect of any misconduct or breach of discipline which may have occurred prior to the date on which the relevant provisions of the Ordinance came into operation. These doubts will be removed by the new sub-section (3) which is to be inserted in section 23 of the Ordinance by Clause 8 of this Bill.

8. An individual member of the Commission should not be liable to be sued or prosecuted for anything done or decided by him in his official capacity as a member of the Commission or by the Commission in its corporate capacity. This immunity will be conferred by the new section 58A set out in Clause 9 of the Bill.

9. In Clause 11, an amendment is proposed to the First Schedule to the Ordinance in order to remove the ambiguity created by some words which are totally unnecessary and should therefore be omitted from the context in which they appear.

10. Many of the amendments made by this Bill were found to be necessary from the very first day on which the relevant provisions of the Ordinance came into operation. Retrospective effect is therefore given to these amendments by Clause 12.

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

Colombo, October 10, 1946.

## MINUTE.

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

L.D.—O. 42/46.

4/7/27 (FSO)

### An Ordinance to amend the Income Tax 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 Income Tax (Amendment) Ordinance, No. of 1946.

Amendment of section 7 of Chapter 188.

2. (1) Section 7 of the Income Tax Ordinance (hereinafter referred to as "the principal Ordinance") is hereby amended as follows:—

(a) in sub-section (1) of that section:—

(i) by the insertion, immediately after paragraph (j), of the following new paragraph:—

"(jj) such emoluments and income as may be exempted from time to time by Order made under sub-section (3);"; and

(ii) by the substitution, for the words "in this sub-section," at the end of that sub-section, of the words "In this sub-section and in sub-section (3),"; and

(b) by the insertion, immediately after sub-section (2) of that section, of the following new sub-section:—

"(3) The Governor may, by Order published in the *Gazette*, exempt from the tax the official emoluments, and any income not arising in or

derived from Ceylon, of any Trade Commissioner appointed to Ceylon by the Government of any part of his Majesty's dominions outside Ceylon, and of any persons on the staff of any such Commissioner.

In any such Order the Governor may—

- (a) prescribe the conditions subject to which the exemption is granted;
- (b) specify either by name or by office the persons whose emoluments and income are so exempted; or
- (c) limit the exemption to any income derived from any particular source."

(2) An Order under the new sub-section (3) inserted in section 7 of the principal Ordinance by sub-section (1) of this section, shall, if so expressed, be deemed to have had effect from such date prior to the commencement of this Ordinance as may be specified by the Governor in the Order.

*Objects and Reasons.*

The object of this Bill is to amend section 7 of the Income Tax Ordinance so as to enable the Governor to make Orders exempting from income tax the official salary, and any other income not arising in or derived from Ceylon, of persons appointed as Trade Commissioners in Ceylon of Empire Governments and of members of their staffs.

2. Clause 2 (2) of the Bill gives power to grant the exemption retrospectively.

Colombo, 10th October, 1946. C. E. JONES,  
Financial Secretary.

MINUTE.

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

L. D.—O. 36/46.

**An Ordinance to amend the Rubber Research Ordinance.**

Chapter 302  
(Volume VI,  
Page 444).

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 Rubber Research (Amendment) Ordinance, No. of 1946.

Short title.

2. Section 6 of the Rubber Research Ordinance is hereby amended, in sub-section (1) (a) of that section, as follows:—

Amendment of  
section 6 of  
Chapter 302.

(1) by the addition, immediately after the words "general revenue:", of the following:—

"Provided that, during the period commencing on January 1, 1947, and ending on December 31, 1956, there shall be charged, levied and paid, for the purpose aforesaid, an export duty of one fourth of a cent on every pound of rubber exported from the Island, in lieu of the export duty specified in the preceding provisions of this sub-section."

and

(2) by the substitution, for the words "Provided, however, that", of the words "Provided further that".

*Objects and Reasons.*

The Rubber Research Board intends to undertake an enlarged programme of research during the next ten years. As the income derived by the Board from the export duty specified in section 6 (1) (a) of the Rubber Research Ordinance (Chapter 302) will not be sufficient to meet the additional expenditure which will be incurred in carrying out this programme, it is proposed that the export duty should be increased from one eighth of a cent to one fourth of a cent on every pound of rubber exported from Ceylon, and that the increased duty should be in force for a period of ten years commencing on January 1, 1947. The object of this Bill is to give effect to the proposal.

D. S. SENANAYAKE,  
Minister for Agriculture and Lands.  
Colombo, 10th October, 1946.

## MINUTE.

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

L. D.—O. 3/46.

Chapter 140  
(Vol. III.,  
p. 664).

**An Ordinance to amend the Explosives 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 Explosives (Amendment) Ordinance, No. of 1946.

Amendment of  
section 12 of  
Chapter 140.

2. Section 12 of the Explosives Ordinance is hereby amended as follows :—

- (1) by the re-numbering thereof as sub-section (1) of section 12 ;
- (2) in the re-numbered sub-section (1) of that section, by the substitution, for the words " This Ordinance shall not apply ", of the words " Nothing in any other section of this Ordinance shall apply " ;
- (3) by the insertion, immediately after the re-numbered sub-section (1) of that section, of the following new sub-section :—

" (2) (a) The Governor may make regulations as to the loading, unloading, handling, storing and conveyance of explosives imported or exported for the use of any of the forces or departments or for any service referred to in sub-section (1). Such regulations may be made applicable—

- (i) to any specified port or airport or generally to all ports or airports at which such explosives are loaded or unloaded ; or
- (ii) to any specified premises, place or vehicle or generally to all premises, places or vehicles in which such explosives are stored during transit between a port or airport and their destination.

(b) No regulation made under paragraph (a) shall have effect until it has been approved by the Secretary of State and notification of such approval has been published in the *Gazette*.

(c) Every person who contravenes any regulation made under paragraph (a) shall be guilty of an offence punishable on conviction after summary trial by a Magistrate with a fine not exceeding one thousand rupees." ;

- (4) by the substitution, for the marginal note to that section, of the following new marginal note :—

" Special provision as to explosives imported or exported for the use of the Crown."

*Objects and Reasons.*

One of the purposes of the Explosives Ordinance is to prevent the accidents that may arise from the improper handling or storing of explosives. But by virtue of section 12, the Ordinance does not apply to explosives belonging to or under the control of the Services and of government departments. It is clear, however, that the loading, unloading, storing and conveyance of explosives imported by the Services and by Government departments will, if uncontrolled, imperil the safety of ports and airports and of shipping and aircraft. As a matter of fact, it became necessary during the war to impose such control by means of Defence Regulations and orders thereunder. The object of the present Bill is to amend section 12 of the Ordinance so as to enable the Governor to make regulations regarding the loading, unloading, storing and conveyance of explosives imported or exported by the Services and by Government departments.

A. MAHADEVA,

Colombo, 13 October 12, 1946.

Minister for Home Affairs.