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4th Session 1963-64



Ceylon Petroleum Corporation (Amendment) Act, No. 5 of 1963

Date of Assent : 22nd August, 1963

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Ceylon Petroleum Corporation (Amendment)
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L. D.—O. 21/63.

AN ACT TO AMEND THE CEYLON PETROLEUM
CORPORATION ACT, NO. 28 OF 1961.

[Date of Assent: 22nd August, 1963]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Ceylon Petroleum Corporation (Amendment) Act, No. 5 of 1963. Short title.

2. The long title of the Ceylon Petroleum Corporation Act, No. 28 of 1961, hereinafter referred to as the "principal Act", is hereby amended, by the substitution, for the expression "to carry on business as an importer, exporter, seller, supplier or distributor of petroleum," of the expression "to carry on business as an importer, exporter, seller, supplier or distributor of petroleum, as well as the business of exploring for, or exploiting or producing or refining petroleum,". Amendment of the long title of Act No. 28 of 1961.

3. Section 5 of the principal Act is hereby amended as follows:— Amendment of section 5 of the principal Act.

(a) in paragraph (a) of that section, by the substitution, for the expression "of petroleum; and", of the expression "of petroleum;"

(b) by the relettering of paragraph (b) of that section as paragraph (c) of that section;

(c) by the insertion, immediately after paragraph (a) of that section, of the following new paragraph:—

"(b) to carry on the business of exploring for, and exploiting, producing, and refining of, petroleum; and"; and

(d) in relettered paragraph (c) of that section, by the substitution, for the expression "in paragraph (a).", of the expression "in paragraphs (a) and (b).".

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Insertion of
new sections
5A to 5J in
the principal
Act.

4. The following new sections are hereby inserted immediately after section 5, and shall have effect as section 5A, section 5B, section 5C, section 5D, section 5E, section 5F, section 5G, section 5H, section 5I and section 5J, of the principal Act:—

Meaning of
the expression
"appointed
date".

5A. (1) For the purposes of sections 5B, 5D and 5F, the expression "appointed date" means such date as may be appointed by the Minister, with the approval of the Government, by Order published in the *Gazette* (being a date prior to January 1, 1964) or the following date, namely, January 1, 1964, whichever of such dates is the earlier date.

(2) An Order made under sub-section (1) shall, upon its publication in the *Gazette*, be deemed to be as valid and effectual as if it were herein enacted.

Exclusive right
to import,
export, sell,
supply or distri-
bute petroleum
of certain
classes or
descriptions
vested in the
Corporation.

5B. (1) On and after the appointed date, the right to import, export, sell, supply or distribute—

- (a) petrol;
- (b) kerosene;
- (c) diesel oil; and
- (d) furnace oil,

shall, save as otherwise expressly provided by or under this Act, vest exclusively in the Corporation.

(2) On and after the appointed date, no person, other than the Corporation, shall, save as otherwise expressly provided by or under this Act, import, export, sell, supply or distribute—

- (a) petrol; or
- (b) kerosene; or
- (c) diesel oil; or
- (d) furnace oil.

(3) The sale, supply or distribution by any person of any petrol, kerosene, diesel oil or furnace oil shall be deemed not to be—

- (a) an interference with, or a violation of, the exclusive right vested in the Corporation by sub-section (1); or

(b) a contravention of the provisions of sub-section (2),

if, but only if, it is done under the written authority of the Minister or any authorised officer under sub-section (4), or of the Board of Directors under section 5E, and in accordance with the terms and conditions subject to which such authority is granted.

(4) The Minister or any authorised officer may grant a written authority to any person to import, export, sell, supply, or distribute petroleum of any class or description specified in sub-section (1) for the sole purpose only of enabling such person to provide petroleum of that class or description as fuel for marine ships or aircraft.

Power of Minister by Order to vest the exclusive right in the Corporation to import, export, sell, supply or distribute petroleum of certain classes or descriptions.

5c. (1) The Minister may, from time to time, by Order declare that the right to import, export, sell, supply or distribute petroleum of any such class or description as shall be specified in the Order, not being petroleum of any class or description specified in sub-section (1) of section 5B, shall, save as otherwise expressly provided by or under this Act, vest exclusively in the Corporation. Any such Order may be amended, varied or revoked by the Minister by a like Order.

(2) The provisions of sub-sections (3) to (5), both inclusive, of section 66 shall *mutatis mutandis* apply to every Order made under sub-section (1) of this section in like manner and to the same extent as such provisions apply to an Order made under the said section 66.

(3) So long as an Order made by the Minister under sub-section (1) is in force in respect of petroleum of any class or description, no person, other than the Corporation, shall save as otherwise expressly provided by or under this Act; import, export, sell, supply or distribute petroleum of that class or description.

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(4) The sale, supply or distribution by any person of petroleum of any class or description in respect of which there is for the time being in force an Order made by the Minister under sub-section (1) shall be deemed not to be—

(a) an interference with, or a violation of, the exclusive right vested in the Corporation by that Order; or

(b) a contravention of the provisions of sub-section (3),

if, but only if, it is done with the written authority of the Board of Directors under section 5E, and in accordance with the terms and conditions subject to which such authority is granted.

Exclusive right to explore for, etc., petroleum vested in the Corporation.

5D. On and after the appointed date, the right to explore for, and exploit, produce and refine, petroleum shall vest exclusively in the Corporation; and accordingly, on and after that date, no person, other than the Corporation, shall explore for, or exploit or produce or refine, petroleum.

Power of Board of Directors to authorise persons to sell, etc., petroleum of certain classes or descriptions.

5E. Notwithstanding that the exclusive right to sell, supply or distribute petroleum of any class or description is vested in the Corporation by any provision of this Act or any Order made thereunder, the Board of Directors may, from time to time, as respects petroleum of that class or description only grant written authority to any person to sell, supply or distribute petroleum of that class or description subject to such terms and conditions as may be determined by such Board.

Control of the establishment and maintenance of equipment and facilities for the exploration, etc., of petroleum.

5F. On and after the appointed date, no person, other than the Corporation or any person authorised by the Board of Directors under section 5E, shall establish or maintain any equipment or facilities

for the exploration, exploitation, production, refinement, storage, sale, supply or distribution of petroleum except with the written authority of the Minister or any authorised officer, or otherwise than in accordance with the terms or conditions subject to which such authority is granted.

Control of the disposal of equipment and facilities intended for the exploration, etc., of petroleum.

5G. No person, other than the Corporation, shall export, sell, lease, transfer, hypothecate, alienate or dispose of in any manner whatsoever any equipment or facilities which had been, or is or are being, or is or are, or was or were, intended to be used for the exploration, exploitation, production, refinement, storage, sale, supply or distribution of petroleum except with the written authority of the Minister or any authorised officer, or otherwise than in accordance with the terms or conditions subject to which such authority is granted.

Special provisions applicable to the power of granting written authorities conferred on the Minister, authorised officers and the Board of Directors.

5H. The following provisions shall be applicable in the case of the exercise of the power to grant a written authority conferred on the Minister, any authorised officer or the Board of Directors by any of the sections 5B, 5E, 5F and 5G:—

(1) Such authority may be granted either of his or its own motion or on application in that behalf made by any person.

(2) The Minister, such officer or such Board may, in his or its absolute discretion, decide whether to grant or refuse to grant such authority.

(3) The Minister, such officer or such Board may, in his or its absolute discretion, decide the terms and conditions subject to which such authority should be granted.

- (4) The Minister, such officer or such Board may, in his or its absolute discretion, decide at any time to cancel such authority.
- (5) The terms or conditions of such authority may be amended, varied or cancelled either of his or its own motion or on application in that behalf made by the person to whom such authority is granted.
- (6) The Minister, such officer or such Board may, in his or its absolute discretion, decide whether or not to amend, vary or cancel any term or condition of such authority.
- (7) Any decision made by the Minister, such officer or such Board under the preceding provisions of this section shall be final and conclusive, and shall not be called in question in any court whether by way of writ or otherwise.

Meaning of
the expression
" authorised
officer ".

5I. The expression " authorised officer " wherever it occurs in any of the sections 5B to 5H (both inclusive) means any public officer or an officer of the Corporation authorised in that behalf by the Minister.

Special provisions relating
to employees of
persons who
were carrying
on business as
importer and
seller, etc.,
of petroleum.

5J. (1) No person other than the Corporation who on the 5th day of June, 1963, was carrying on business as an importer and seller, supplier or distributor of petroleum of any class or description specified in sub-section (1) of section 5B shall terminate the employment of any person (hereafter in this section referred to as an " employee ") employed by him except with the written approval of the Commissioner, or otherwise than in accordance with the terms or conditions subject to which such approval is granted.

A person who was carrying on the business referred to in the preceding provisions of this sub-section is hereafter in this section referred to as an "employer".

(2) The following provisions shall apply in the case of the exercise of the powers conferred on the Commissioner to grant his approval to an employer terminating the employment of any employees:—

(a) Such approval may be granted or refused on application in that behalf made by such employer.

(b) The Commissioner may, in his absolute discretion, decide to grant or refuse such approval.

(c) The Commissioner may, in his absolute discretion, decide the terms and conditions subject to which his approval should be granted, including in particular terms and conditions relating to the payment by such employer to such employee of a gratuity or compensation for the termination of employment.

(d) Any decision made by the Commissioner under the preceding provisions of this sub-section shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(3) Where, on or after June 5, 1963, any employer has granted or grants to any employee, in addition to any benefit such employee was or would be entitled to receive in the ordinary course of his employment, any *ex gratia* gratuity or compensation or other benefit (hereafter in this sub-section referred to as "*ex gratia* benefits"), then, every person who was an employee of that employer on June 5, 1963, shall be entitled, with the

approval of the Commissioner given upon application in that behalf made by such person, to receive the same *ex gratia* benefits: so however that the amount thereof shall be as determined by the Commissioner. The preceding provisions of this sub-section shall apply to any person notwithstanding that he ceased or ceases to be an employee of that employer after June 5, 1963, for any reason whatsoever other than misconduct. Any approval or determination of the Commissioner under the preceding provisions of this sub-section shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise.

(4) Where an *ex gratia* gratuity or compensation or other benefit is granted by any employer to an employee, such employer shall furnish to the Commissioner, within thirty days of the grant thereof, full details of the gratuity, compensation or other benefit so granted. Such details shall be furnished in such form and manner as may be determined by the Commissioner.

(5) In this section, "Commissioner" means the Commissioner of Labour, and includes a Deputy Commissioner of Labour.

Amendment of
section 42 of
the principal
Act.

5. Section 42 of the principal Act is hereby amended as follows:—

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

- (i) by the substitution, in paragraph (b) of that sub-section, for the expression "in paragraph (a); and", of the expression "in paragraph (a);";
- (ii) by the substitution, in paragraph (c) of that sub-section, for the expression "or paragraph (b).", of the expression "or paragraph (b); and"; and
- (iii) by the insertion, immediately after paragraph (c) of that sub-section, of the following new paragraph:—

“(d) request any person to furnish information with regard to any matter within his knowledge relating to the business of importation, exportation, storage, sale, supply or distribution of petroleum, whether carried on by himself or any other person, and the persons employed for the purposes of such business including details of their salaries, gratuities, compensation, or other benefits accruing to them.”; and

(b) in sub-section (2) of that section, by the substitution, for the expression “ of sub-section (1) (c) ”, of the expression “ of sub-section (1) (c) or sub-section (1) (d) ”.

6. Section 52 of the principal Act is hereby amended as follows:—

Amendment of
section 52 of
the principal
Act.

(a) by the insertion, immediately after paragraph (a) of that section, of the following new paragraph:—

“(aa) where any sum has been certified under the hand of the Commissioner of Labour to the Corporation to be due from such person as a gratuity or other monetary benefit to any other person whose employment has been terminated under the provisions of section 51, then, from the amount of such compensation, the Corporation shall pay the sum so specified to the Commissioner of Labour for the payment of such gratuity or other benefit, or ”; and

(b) by the substitution, in paragraph (b) of that section, for the expression “ preceding paragraph (a), ”, of the expression “ preceding paragraphs (a) and (aa), ”.

7. Section 56 of the principal Act is hereby amended in sub-section (2) of that section, by the substitution, for the expression “ of Commerce, Trade, Food and Shipping ”, of the expression “ in charge of the Minister ”.

Amendment of
section 56 of
the principal
Act.

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Special provisions regarding loss of business, etc.

8. Save as otherwise expressly provided by this Act no person shall be entitled to compensation from the Government or any Minister or the Corporation or any Director, officer, servant or agent of the Corporation for any loss, damage or injury incurred by him whether directly or indirectly or by way of business or otherwise by reason of the operation of any of the provisions of this Act.

Amendment of section 69 of the principal Act.

9. Section 69 of the principal Act is hereby amended in sub-section (1) of that section by the insertion, immediately after paragraph (b) of that sub-section, of the following new paragraph:—

“(bb) contravenes or fails to comply with the provisions of any Order made by the Minister under section 5c shall be guilty of an offence under this Act;”.

Special provisions regarding new sections 5A to 5J.

10. The provisions of the new sections 5A to 5J (both inclusive) inserted in the principal Act by section 4 of this Act shall have effect notwithstanding anything to the contrary in any other provisions of the principal Act, or in any undertaking, express or implied, given by or on behalf of the Government or the Corporation relating to the business of importing, exporting, selling, supplying or distributing petroleum.

Retroactive effect of new section 5J.

11. The new section 5J inserted in the principal Act by section 4 of this Act shall be deemed for all purposes to have come into force on June 5, 1963.