

PARLIAMENT OF CEYLON

1st Session 1960-61



Motor Transport (Amendment) Act, No. 22 of 1961

Date of Assent : May 15, 1961

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*Motor Transport (Amendment)
Act, No. 22 of, 1961*

L. D—O. 56/59.

AN ACT TO AMEND THE MOTOR TRANSPORT ACT,
No. 48 OF 1957.

[Date of Assent: 15th May, 1961]

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 Motor Transport (Amendment) Act, No. 22 of 1961.

Short title.

2. Section 2 of the Motor Transport Act, No. 48 of 1957, (hereinafter referred to as the "principal Act"), is hereby amended, by the repeal of sub-section (11) of that section and the substitution therefor of the following new sub-section:—

Amendment of section 2 of Act No. 48 of 1957.

" (11) The members of the Ceylon Transport Board shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Minister with the concurrence of the Minister of Finance. "

3. Section 4 of the principal Act is hereby amended, by the substitution,—

Amendment of section 4 of the principal Act.

(a) for the words " Chairman of ", of the words " Chairman or Vice-Chairman of "; and

(b) for the words " of the officer " to the end of that section, of the following:—

" of the General Manager or Secretary of the Board or some other officer of the Board authorised by the Board to authenticate the application of such seal. "

4. Section 6 of the principal Act is hereby amended, in sub-section (1) of that section, by the substitution, in paragraph (xi) of that sub-section, for the words " perform all ", of the words " perform, directly or through any officer or agent authorised in that behalf by the Board, all ".

Amendment of section 6 of the principal Act.

Insertion of
new section
17A in the
principal Act.

5. The following new section is hereby inserted immediately after section 17, and shall have effect as section 17A, of the principal Act:—

“ No compensa-
tion for loss
incurred by
reason of the
vesting in
the Board of
omnibuses
used for
providing
occasional
omnibus
services.

17A. No person shall be entitled to compensation for any loss incurred by him, whether directly or indirectly, or by way of business or otherwise, by reason of the vesting in the Board under this Act of any omnibus used or intended to be used by such person for the purpose of providing occasional omnibus services. ”.

Amendment of
section 19 of
the principal
Act.

6. Section 19 of the principal Act is hereby amended, in sub-section (1) of that section, by the substitution, for the words “ is intended ”, of the words “ is or was intended ”.

Insertion of
new section
21A in the
principal Act.

7. The following new section is hereby inserted immediately after section 21, and shall have effect as section 21A, of the principal Act:—

“ Revocation
of vesting
Order.

21A. (1) Notwithstanding that any movable or immovable property has vested in the Ceylon Transport Board by virtue of a vesting Order, the Minister may at any time by subsequent Order published in the *Gazette* (hereafter in this section referred to as a “ divesting Order ”) revoke that vesting Order.

(2) The following provisions shall apply in any case where a vesting Order in respect of any movable or immovable property is revoked by a divesting Order:—

(a) that property shall be deemed never to have vested in the Ceylon Transport Board by virtue of that vesting Order, and any question which might arise as to any right, title or interest, in or over that property shall be determined accordingly;

(b) that property shall, if it is immovable property, be deemed to have been and to be property which was requisitioned by a

requisitioning Order with effect from the date on which that vesting Order took effect and was derequisitioned by a derequisitioning Order with effect from the date of the revocation of that vesting Order;

(c) all claims made under this Act to the compensation payable in respect of that immovable property and all proceedings taken under this Act in regard to such claims before that vesting Order was revoked shall be deemed to be null and void, and fresh claims to compensation in respect of that immovable property may be made under this Act and fresh proceedings in regard to such fresh claims may be taken under this Act;

(d) no compensation shall be payable under this Act in respect of that property if it is movable property.

(3) The preceding provisions of this section shall have effect notwithstanding anything in any other provision of this Act or in any other written law."

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

Amendment of
section 23 of
the principal
Act.

"(2A) Where the person in possession of any property vested in or requisitioned for the Ceylon Transport Board is a company or other body of persons, then, for the purpose of sub-section (2), the Directors, the Manager and the Secretary of such company or other body of persons shall each be deemed to be a person in possession of that property."

Amendment of
section 27 of
the principal
Act.

9. Section 27 of the principal Act is hereby amended as follows:—

(1) by the repeal of sub-section (1) of that section and the substitution therefor of the following new sub-section:—

“(1) The Chairman of the Ceylon Transport Board or the Commissioner of Labour or any other person authorised in that behalf by such Chairman or such Commissioner may direct the holder of a stage carriage permit for a regular omnibus service or for a regular hiring car service or for an occasional omnibus service—

(a) to furnish to him such information, returns, statements or statistics; or

(b) to produce for his inspection, at such time and place as may be specified in the direction, such books and documents,

relating to the business which was carried on, or is carried on, under the authority of that permit or to the persons who were employed or are employed for the purpose of that business as may be indicated in the direction, and the holder shall comply with that direction.”;

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

“(1A) Where the holder of a stage carriage permit is a company or other body of persons, any direction under sub-section (1) may be given or issued to a Director, the Manager, the Secretary or any other officer, of such company or other body of persons; and such Director, Manager, Secretary or other officer shall comply with that direction.”;

(3) in sub-section (2) of that section, by the substitution,—

(a) for the words “or any person”, of the words “or the Commissioner of Labour or any person”; and

- (b) for the words "such Chairman may—", of the words "such Chairman or such Commissioner may—"; and
- (4) in sub-section (3) of that section, by the substitution, for the expression "sub-section (1)", of the expression "sub-section (1) or sub-section (1A)".

10. Section 32 of the principal Act is hereby amended, in paragraph (a) of sub-section (1) of that section, by the substitution, for the words "risks; and", of the words "risks and risks under the Workmen's Compensation Ordinance; and".

Amendment of
section 32 of
the principal
Act.

11. Section 38 of the principal Act is hereby amended, in sub-section (2) of that section, by the substitution, for the words "the date.", of the following:—

Amendment of
section 38 of
the principal
Act.

"the date, and the monthly remuneration referred to in this Proviso shall include the cost of living allowance and the dearness allowance but shall not include any other allowance or any payment for overtime work."

12. Section 40 of the principal Act is hereby repealed and the following new section substituted therefor:—

Replacement
of section 40 of
the principal
Act.

"Payments in respect of persons who are or have been employed in connection with any authorised omnibus transport business.

40. (1) The following provisions shall apply to a person (hereafter in this section referred to as the "qualified employee") who, having been or being in the employ of the holder of a stage carriage permit for a regular omnibus service on such work as was connected with that omnibus service, has ceased or ceases to be, after April 12, 1956, in the employ of such holder, whether of his own accord or upon the termination of his services by such holder:—

(a) where the qualified employee was a contributor to any provident fund, the administrator or administrators of that fund—

- (i) shall, notwithstanding anything to the contrary in the rules of that fund, pay to the Ceylon Transport Board the amount which was to the credit of the individual account of such employee in that fund on the date on which such employee ceased to be an employee of such holder; and
 - (ii) shall recover any arrears of contribution due to that fund from such employee or from such holder in respect of such employee up to the date of the payment to the Ceylon Transport Board of the amount aforesaid, and any such arrears as are not recovered before that date by such administrator or administrators shall be paid after that date to the Ceylon Transport Board by such employee or such holder, as the case may be;
- (b) such holder shall pay to the Ceylon Transport Board, as a gratuity in respect of the service, whether or not under such holder, of such employee in connection with any authorised omnibus transport business during the whole or any part of the period (hereafter in this section referred to as the "relevant period") commencing on September 1, 1946, and ending on the date on which such employee ceased to be employed

by such holder, a sum which shall be calculated at the prescribed rate:

Provided that—

- (i) where such holder has, for the period of service of such employee in connection with that business during the relevant period, paid in respect of such employee any contribution to any gratuity or provident fund or scheme established by such holder, the amount of such contribution shall be deducted from the amount of the gratuity which such holder is liable under the preceding provisions of this paragraph to pay in respect of such employee, and
- (ii) where the amount of such holder's contribution in respect of such employee to such gratuity, provident fund or scheme for such period of service of such employee exceeds the amount of such gratuity, such holder shall be exempt from the liability to pay such gratuity;
- (c) if the qualified employee was employed, whether or not under such holder, in connection with any authorised omnibus transport business prior to September 1, 1946, then, such holder shall pay to the Ceylon Transport Board as a gratuity to the qualified employee a sum calculated at the prescribed rate

referred to in paragraph (b) of this sub-section in respect of the qualified employee's employment in connection with that business during the period immediately preceding September 1, 1946, so however that the maximum sum payable in respect of that period does not exceed one hundred rupees;

(d) where such holder has already paid to the qualified employee a gratuity in respect of the qualified employee's period of service referred to in paragraph (b) or paragraph (c) of this sub-section, then, notwithstanding the provisions of that paragraph,—

(i) if the gratuity already paid is equal to or more than the gratuity payable in respect of such qualified employee under that paragraph, no gratuity under that paragraph shall be paid in respect of such qualified employee, and

(ii) if the gratuity already paid is less than the gratuity payable in respect of the qualified employee under that paragraph, the gratuity payable under that paragraph shall be reduced by the deduction therefrom of the amount of the gratuity already paid;

(e) where such holder is liable to pay any sum to the qualified employee under any such collective agreement affecting such employee and effected under the Industrial Disputes Act, No. 43 of 1950, as is in

operation on the date on which the stage carriage permit of such holder ceases to be in force by virtue of any provision of this Act, or under any other agreement or award which is in force on that date and which legally binds such holder and such employee, such holder shall pay that sum to the Ceylon Transport Board;

(f) such holder shall pay to the qualified employee any sums due to the qualified employee as remuneration in respect of his employment with such holder;

(g) such holder shall pay to the Ceylon Transport Board any sum due to the qualified employee in repayment of any security furnished by the qualified employee in respect of his employment with such holder.

(2) Where the Ceylon Transport Board is paid any sum under sub-section (1) in respect of a qualified employee, then—

(a) if that sum is so paid to the Board under paragraph (a) or paragraph (b) or paragraph (c) or paragraph (e) of that sub-section, the Board shall, if that employee is not on the staff of the Board, pay such sum to the Commissioner of Labour, and, if that employee is on the staff of the Board, credit such sum to the individual account of that employee in any provident fund to which that employee is a contributor unless a written request is made to the Board by that employee that such sum should be paid to that employee in which case

such sum shall be paid to that employee instead of being credited to his individual account in such provident fund; and

- (b) if that sum is so paid to the Board under paragraph (g) of that sub-section, the Board shall, if that employee is on the staff of the Board and is required by the Board to furnish any security in respect of his employment with the Board, retain that sum as such security or as part of such security, and, if that employee is on the staff of the Board and is not required by the Board to furnish any such security, pay such sum to that employee, and, if that employee is not on the staff of the Board, transmit that sum to the Commissioner of Labour after deducting therefrom any sums due to the Board from that employee.

(3) Where the Commissioner of Labour receives any sum from the Ceylon Transport Board under sub-section (2), he shall pay that sum or cause it to be paid to the person entitled to that sum:

Provided that where such sum cannot be paid to that person because he is dead or cannot be found, the Commissioner of Labour shall credit that sum to a special account opened for the purposes of this sub-section, and that sum shall be available for payment to the person entitled thereto upon application made in that behalf to the Commissioner.

(4) For the purposes of this section, the expression "authorised omnibus transport business" means any business connected with the transport of passengers by omnibus carried on under the

authority of a road service licence granted under the repealed Omnibus Service Licensing Ordinance, No. 47 of 1942, or under the authority of a stage carriage permit for a regular omnibus service granted under the Motor Traffic Act.

(5) For the purpose of reckoning the relevant period referred to in paragraph (b) of sub-section (1), account shall be taken of intermittent periods of service.

(6) The prescribed rate referred to in paragraph (b) of sub-section (1) shall,—

(i) in the case of a monthly rated employee, be calculated at one-twenty-fourth of a month's remuneration for each month during which the qualified employee was in service, and

(ii) in the case of an employee who is daily rated at one and one-twenty-fourth of a day's remuneration for each month during which the qualified employee was in service,

and each such month during which that qualified employee was in service shall mean one of the twelve months in a year during the whole of which the contract of employment of that employee subsisted.

(7) The remuneration referred to in the preceding paragraphs (i) and (ii) of sub-section (6) shall be the basic salary or wages payable by such holder to the qualified employee immediately before the qualified employee ceased to be in the employ of such holder and shall include the cost of living allowance and the dearness allowance but shall not include any other allowance or any payment for overtime work."

Insertion of
new sections
40A and 40B in
the principal
Act.

13. The following new sections are hereby inserted immediately after section 40, and shall have effect as section 40A and section 40B, of the principal Act:—

“Transfer of
amounts
standing to
the credit
of certain
funds to
the Ceylon
Transport
Board.

40A. (1) Where, on the date on which a stage carriage permit for a regular omnibus service ceases to be in force by virtue of section 13, there is in existence any fund into which all fines imposed on, and recovered from, persons employed in connection with that omnibus service have been paid, all the monies which are to the credit of that fund on that date shall be paid to the Ceylon Transport Board by the administrator or administrators of that fund. The monies so transferred shall be utilised by the Board for any such purpose beneficial to the employees of the Board as may be approved by the Commissioner of Labour.

(2) Where, on the date on which a stage carriage permit for a regular omnibus service ceases to be in force by virtue of section 13, there is in existence any mutual aid or other similar fund to which persons employed in connection with that omnibus service have been contributors, the administrator or administrators of that fund shall pay to each such person the amount to the credit of the individual account of that person in that fund on that date.

Commutation
of liability
to pay
pensions.

40B. Where any holder of a stage carriage permit for a regular omnibus service is liable to pay a sum of money by way of pension to any person, whether or not such sum is so payable under any such pension scheme relating to workers employed in connection with such omnibus service as is in operation on the date on which that permit ceases to be in force by virtue of section 13 or otherwise or where such holder had undertaken to make or was in fact making any such payment, such holder shall, upon a written request in that behalf made by such person, commute

that liability, undertaking or payment under and in accordance with the terms of—

- (a) an individual agreement or a collective agreement in that behalf which is binding on such holder and such person; or
- (b) any decision in that behalf given by a Motor Transport Labour Tribunal on a reference made to such Tribunal under section 42. ”.

14. Section 41 of the principal Act is hereby amended as follows:—

Amendment of
section 41 of
the principal
Act.

- (a) by the substitution, for the words “ Labour Tribunal ” or “ Labour Tribunals ” wherever those words occur in that section, of the words “ Motor Transport Labour Tribunal ” or “ Motor Transport Labour Tribunals ”, as the case may be;
- (b) in the marginal note to that section, by the substitution, for the word “ Labour ”, of the words “ Motor Transport Labour ”, and
- (c) by the insertion, at the end of that section, of the following new sub-sections:—

“ (7) The proceedings at an inquiry by a Motor Transport Labour Tribunal constituted under this section shall, as far as possible, be free from the formalities and technicalities of the rules of procedure and evidence applicable to a court of law, and may be conducted by such Tribunal in any manner, not inconsistent with the principles of natural justice and any regulations made in that behalf under this Act, which to such Tribunal may seem best adapted to elicit proof concerning the matters that are investigated.

(8) Where, at any proceedings before a Motor Transport Labour Tribunal constituted under this section relating to any dispute referred to such Tribunal for decision under this Act, any party to that dispute claims that any sum of money is

due or payable to such party by any holder of a stage carriage permit for a regular omnibus service who is also a party to that dispute, it shall be presumed that such sum is so due or payable until the contrary is proved by that holder. ”.

Insertion of
new section
41A in the
principal Act.

15. The following new section is hereby inserted immediately after section 41, and shall have effect as section 41A, of the principal Act:—

“Matters that
are to be
referred to
the Commis-
sioner of
Labour.

41A. (1) The following disputes shall be referred, in the manner specified below, for settlement to the Commissioner of Labour:—

(a) any dispute between the Ceylon Transport Board and any person as to whether or not he is the person to whom the Board shall offer employment under section 38 shall be referred by the Board for settlement to the Commissioner of Labour;

(b) any dispute as to whether or not any sum is payable by any person under section 40 or section 40A, or as to the person to whom or in respect of whom such sum is payable, shall be referred, by any party to the dispute for settlement to the Commissioner of Labour; or

(c) any dispute as to whether or not any person is liable to pay a pension to any other person under section 40B or as to the terms of the commutation of such liability, shall be referred, by any party to the dispute, for settlement to the Commissioner of Labour.

(2) Upon the reference of any dispute to the Commissioner of Labour under sub-section (1), the Commissioner shall endeavour to settle that dispute by effecting an individual or collective agreement binding on the parties to such dispute. ”.

16. Section 42 of the principal Act is hereby repealed and the following new section substituted therefor:—

Replacement
of section
42 of the
principal Act.

“Matters that
are to be
referred to
Motor Trans-
port Labour
Tribunals.

42. (1) Where the Commissioner of Labour is unable to settle by agreement, under sub-section (2) of section 41A, any dispute referred to him under sub-section (1) of that section, such Commissioner shall refer that dispute for decision to a Motor Transport Labour Tribunal constituted under section 41.

(2) The decision of a Motor Transport Labour Tribunal constituted under section 41 on any matter referred to it under this Act shall be final and conclusive and shall not be called in question in any court. ”.

17. The following new section is hereby inserted immediately after section 42, and shall have effect as section 42A, of the principal Act:—

Insertion of
new section
42A in
the principal
Act.

“Regulations.

42A. Regulations may be made under this Act for the purpose of giving effect to the principles and provisions of this part of this Act, and in particular but without prejudice to the generality of the powers hereinbefore conferred, in respect of the reference of matters under this Act to, and the inquiries into such matters by, the Commissioner of Labour, and Motor Transport Labour Tribunals constituted under section 41. ”.

18. Section 47 of the principal Act is hereby amended in sub-section (1) of that section as follows:—

Amendment of
section 47 of
the principal
Act.

(a) in sub-paragraph (i) of paragraph (a) of that sub-section, by the substitution, for the expression “registration under the Motor Traffic Act”, of the expression “first registration, whether under the Motor Car Ordinance repealed by the Motor Traffic Act or under that Act, ”; and

(b) by the substitution for all the words from "Provided that" to the end of that sub-section, of the following:—

"Provided that where the omnibus so vested was used in Ceylon prior to its first registration, whether under that Ordinance or that Act, the date of first registration of that omnibus for the purposes of section 47 (1) (a) shall be deemed to be the date of importation of that omnibus into Ceylon if that date is ascertainable, and if that date is not ascertainable shall be deemed to be January 1, 1943:

And provided further that where the omnibus so vested was used in any country other than Ceylon prior to its first registration, whether under that Ordinance or that Act (in this section referred to as a "second-hand omnibus"), the cost to be taken into account for the purpose of the computation of the compensation payable in respect of that second-hand omnibus shall not be the cost of such new omnibus as is specified in the preceding provisions of this sub-section but shall be the actual cost of that second-hand omnibus to the holder of a stage carriage permit increased by not more than five per centum of such cost:

And provided further that in determining the actual cost of a second-hand omnibus the value of the tyres with which it was equipped at the time it was imported into Ceylon shall not be taken into account."

Amendment of
section 50 of
the principal
Act.

19. Section 50 of the principal Act is hereby amended, by the substitution; for sub-section (2) of that section, of the following new sub-section:—

"(2) Any compensation payable under this Act in respect of any property vested in or requisitioned by the Ceylon Transport Board, less the total amount of any deductions which may be made from such compensation under section 52, shall carry

interest, as from the date on which such property so vested or requisitioned until payment, at such rate as may be determined by the Minister with the concurrence of the Minister of Finance.”.

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

Amendment of
section 52 of
the principal
Act.

(1) by the renumbering of that section as sub-section (1) of section 52;

(2) in renumbered sub-section (1) of that section—

(a) by the substitution, for paragraph (a) of that sub-section, of the following new paragraph:—

“ (a) where any sums—

(i) have been certified in writing by a Motor Transport Labour Tribunal to be due from such person under section 40, section 40A or section 40B; or

(ii) have been admitted by such person to be due from him under section 40, section 40A or section 40B, and are certified in writing by the Commissioner of Labour to the Ceylon Transport Board to have been admitted by such person to be so due; or

(iii) have been certified in writing by the Minister or the Commissioner of Motor Traffic as having been paid by the Ceylon Transport Board in discharge of any debt or liability of such person or for the duplicate of a revenue licence for an omnibus by reason of the failure of such person to deliver such licence to such Board; or

(iv) have been certified in writing by the Commissioner of Inland Revenue to the Ceylon Transport Board to be due from such person as tax on income or profits; or

(v)] have been certified in writing by the Commissioner of Motor Traffic to the Ceylon Transport Board to be due from such person as licence fees under the Motor Traffic Act, in respect of any omnibus used by such person for providing regular or occasional omnibus services; or

(vi) have been certified in writing by the Mayor of any Municipal Council, or the Chairman of any other local authority, to the Ceylon Transport Board to be due from such person, on account of rates or taxes in respect of such property; or

(vii) have been certified in writing by the Government Agent of any Administrative District to be due from such person as heavy oil tax in respect of heavy oil motor vehicles under the Heavy Oil Motor Vehicles Taxation Ordinance; or

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(viii) have been certified in writing by any Judge of a District Court to be due from such person as fees to a Liquidator in respect of a compulsory liquidation by Court of a Bus Company or Companies,

then, from the amount of the compensation to which such person is entitled, the Ceylon Transport Board shall, notwithstanding anything in any other law, pay, in the order of priority specified in the preceding provisions of this sub-section, the sums so specified; and the payment shall, in the case of a sum referred to in the preceding subparagraph (i) or subparagraph (ii), be made to the Ceylon Transport Board or the Commissioner of Labour according as such sum is due to the Board or a qualified employee, and in the case of

a sum referred to in the preceding sub-paragraph (iii), be made to the Board, and in the case of any sum referred to in the preceding sub-paragraph (iv), be made to the Commissioner of Inland Revenue, and in the case of any sum referred to in the preceding sub-paragraph (v), be made to the Commissioner of Motor Traffic, and in the case of any sum referred to in the preceding sub-paragraph (vi), be made to that Municipal Council or other local authority, as the case may be, and in the case of any sum referred to in the preceding sub-paragraph (vii), be made to the Government Agent, and in the case of any sum referred to in the preceding sub-paragraph (viii) be made to the Liquidator of such Company or Companies; and the provisions of sub-section (2) of section 40 shall apply to any sum paid under this paragraph to the Ceylon Transport Board in like manner as they apply to any sum paid to the Board under sub-section (1) of section 40, and the provisions of sub-section (3) of section 40 shall apply to any sum paid under this paragraph to the Commissioner of Labour in like manner as they apply to any sum received by the Commissioner under sub-section (2) of section 40; ”;

(b) by the substitution, in paragraph (b) of that sub-section, for the expression “shall be paid”, of the expression “shall, subject to the provisions of sub-section (2), be paid ”; and

(3) by the insertion, at the end of that section, of the following new sub-sections:—

“(2) The following provisions shall apply in any case where the compensation to which the holder of a stage carriage permit for a regular omnibus service is entitled in respect of any property vested in or requisitioned

for the Ceylon Transport Board is inadequate to pay the whole or any part of any sum payable out of that compensation under sub-section (1):—

(a)] any person who is entitled to compensation in respect of any property vested in or requisitioned for the Ceylon Transport Board—

(i) by virtue of his having been, prior to the date of such vesting or requisitioning, the owner of that property under any disposition effected by such holder, or

(ii) by virtue of his having been, prior to that date, a mortgagee of that property under a mortgage or a holder of a security bond effected by such holder, or

(iii) which, prior to that date was owned by him and let by him to such holder under any hire purchase agreement entered into on or before 7th July, 1957,

shall be liable or, if there is more than one such person, such persons shall, in the prescribed order of priority, be liable, to pay out of the compensation to which such person is so entitled the amount due from such holder which cannot be paid out of the compensation to which such holder is entitled if the amount so due is not recovered from such holder in any proceedings for that purpose instituted under section 52B; and accordingly the Ceylon Transport Board shall retain, out of the compensation to which such person

is entitled, such sum as the Board may deem necessary as security for the payment of the amount so due;

(b) where, in any proceedings instituted under section 52B for the recovery of the amount due from such holder which cannot be paid out of the compensation to which such holder is entitled,—

(i) the whole of that amount is recovered from such holder, any sum so retained as security for the payment of such amount shall be paid by the Ceylon Transport Board to the person entitled to such sum, or

(ii) a part of that amount is recovered from such holder, such part of any sum so retained as may be necessary shall be utilised by the Ceylon Transport Board for the purpose of paying the balance of that amount not so recovered, and the remainder of that sum shall be paid by the Ceylon Transport Board to the person entitled to such payment, or

(iii) the amount so due is not recovered in whole or in part from such holder, any sum so retained shall be utilised by the Ceylon Transport Board for the purpose of paying that amount;

(c) where any sum out of the compensation payable to any person in respect of any property vested in or requisitioned

for the Ceylon Transport Board has been utilised by that Board under paragraph (b) to meet any liability incurred by such person by reason of the failure to recover as aforesaid from the holder of a stage carriage permit any amount due from such holder which cannot be paid out of the compensation to which such holder is entitled, such person shall be entitled to recover that sum from such holder, notwithstanding the provisions of any written law relating to prescription.

(3) In this section and in sections 52A and 52B, the expression "compensation" includes interest which has accrued due on such compensation in terms of subsection (2) of section 50."

Insertion of
new sections
52A and 52B in
the principal
Act.

21. The following new sections are hereby inserted immediately after section 52, and shall have effect as section 52A and section 52B, of the principal Act:—

"Certification
of amount
that cannot
be paid out
of compensa-
tion under
section 52.

52A. Where the compensation, to which a person is entitled in respect of any property vested in or requisitioned for the Ceylon Transport Board is inadequate to pay the whole or any part of any sum payable out of that compensation under section 52, then, if that sum is payable to the Ceylon Transport Board, the Chairman of that Board, or, if that sum is payable to the Commissioner of Labour, such Commissioner, shall certify in writing the amount due from such person which cannot be paid out of that compensation.

Recovery of
amount that
cannot be
paid out of
compensation
under paragraph
(a) of sub-
section (1) of
section 52 by
any person.

52B. (1) Upon the production of a certificate issued by the Chairman of the Ceylon Transport Board or the Commissioner of Labour under section 52A before the District Court or the Court of Requests within whose jurisdiction the person from whom the sum specified in the certificate is due resides, according

as that sum exceeds or does not exceed three hundred rupees, the court shall direct a writ of execution to issue to the Fiscal authorising him and requesting him to seize and sell all or any of the property movable or immovable of that person or such part thereof as may be necessary for the recovery of that sum; and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to the execution of such writ and to such seizure and sale.

(2) Where the Chairman of the Ceylon Transport Board or the Commissioner of Labour issues the certificate referred to in sub-section (1), he shall in writing notify that fact to the person specified in the certificate as the person from whom any sum so specified is payable, but the non-receipt of such notification by such person shall not invalidate the proceedings under this section.

(3) Nothing in the preceding provisions of this section shall affect or be deemed or construed to affect the right of any person to recover in any other manner any sum payable to him under section 40, section 40A, or section 40B.

(4) A District Court or Court of Requests shall, in the exercise of the powers conferred on it by the preceding provisions of this section, have regard to the provisions of section 52. ”

22. Section 53 of the principal Act is hereby repealed, and the following new section substituted therefor:—

Replacement of
section 53 of
the principal
Act.

“ Mode and
manner of
payment of
compensation.

53. The mode and manner of payment of compensation under this Act shall be determined by the Minister in consultation with the Minister of Finance. Any such determination as to the manner of such payment may be to the effect that such compensation shall be payable in instalments of such number and of such amount as may be so determined. ”

Amendment of
section 84 of
the principal
Act.

23. Section 84 of the principal Act is hereby amended by the insertion, immediately after subsection (3) of that section, of the following new subsection:—

“(3A) Any person who contravenes, or fails to comply with, any provision of this Act or any regulation made thereunder shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding five hundred rupees, or to both such imprisonment and fine.”.

Amendment of
section 91 of
the principal
Act.

24. Section 91 of the principal Act is hereby amended as follows:—

(1) by the insertion, immediately after the definition of “Ceylon Transport Board”, of the following new definition:—

“ “Commissioner of Labour” includes any Deputy or Assistant Commissioner of Labour; ; and

(2) by the insertion, immediately after the definition of “hiring car”, of the following new definition:—

“ “holder”, in relation to any stage carriage permit, means a person who is or has been the holder of such permit or, in the case of the insolvency or bankruptcy of any such person as is not a company registered under the Companies Ordinance, No. 51 of 1938, the assignee, liquidator or receiver of the estate of the insolvent or bankrupt or, in the case of the winding up of any such person as is a company so registered, the liquidator of such company;”.

to be inserted in
the principal Act
after section 91.

Review of
awards as to
compensation
made under
the principal
Act before the
date of the
commencement
of this Act.

25. The following provisions shall apply in any case where an award as to compensation on a reference under the principal Act has been made by a Compensation Tribunal under that Act (in this section referred to as “the award”) in respect of any property before the date of the commencement of this

Act but such compensation has not been paid, tendered, or deposited in court for payment, to the persons entitled thereto under the principal Act:—

(a) No person shall be entitled to the payment of compensation in respect of such property until the award is reviewed by the Tribunal as hereafter provided in this section, and the Tribunal on such review confirms the award or makes a fresh award as to compensation in respect of such property.

(b) The Tribunal shall review the award with a view to determining whether, having regard to the amendments made in the principal Act with retrospective effect by the preceding provisions of this Act, the award should be confirmed or a fresh award as to compensation should be made in respect of such property.

(c) Where the Tribunal determines:—

(i) that the award should be confirmed, it shall confirm the award, and thereupon the award as so confirmed shall be deemed, for the purposes of the principal Act, at all times to have been, and to be, the award as to compensation in respect of such property made on such reference under the principal Act; or

(ii) that a fresh award as to compensation should be made in respect of such property, it shall make such a fresh award, and thereupon such fresh award shall be deemed, for the purposes of the principal Act, at all times to have been, and to be, the award as to compensation in respect of such property made on such reference under the principal Act, and the award shall be deemed, for such purposes, at all times to have been, and to be, void and of no effect.

(d) For the purposes of a review of the award, the confirmation of the award, or the making of a fresh award, under the principal Act, read with the preceding provisions of this section, Part IV of the principal Act shall, *mutatis mutandis*, apply in like manner and

to the same extent as it applies in the case of references for an award as to compensation and the making of such awards on such references.

- (e) For the purposes referred to in paragraph (d), the Minister may, if he deems it necessary so to do, by Order published in the *Gazette* declare that all or any of the provisions of the aforesaid Part IV shall apply subject to such modifications as may be specified in the Order, and upon the publication of such an Order all or any such provisions as so modified shall apply for such purposes.

The preceding provisions of this section shall be in addition to, and not in derogation of, the provisions of the principal Act:

Provided, however, that in the event of any conflict or inconsistency between the preceding provisions of this section and the provisions of the principal Act, the preceding provisions of this section shall prevail over the provisions of the principal Act.

Retrospective
effect of
amendments

26. The amendments made in the principal Act by the preceding provisions of this Act shall be deemed for all purposes to have taken effect on the date on which the principal Act came into force.