

CHAPTER 634

PETROLEUM

Ordinances AN ORDINANCE TO REGULATE THE IMPORTATION, POSSESSION, TRANSPORT, AND
 Nos. 6 of 1887, HAWKING OF PETROLEUM AND OTHER FLUIDS OF A LIKE NATURE.
 1 of 1893,
 2 of 1902.
 14 of 1904,
 13 of 1905.
 28 of 1909,
 4 of 1911,
 18 of 1918.
 9 of 1920,
 4 of 1935,
 15 of 1936,
 61 of 1939,
 27 of 1940,
 3 of 1946,
Act
 No. 24 of 1956.

[1 st July, 1887.]

Short title. 1. This Ordinance may be cited as the Petroleum Ordinance.

DANGEROUS PETROLEUM

Regulation of the importation, transport, and possession of dangerous petroleum. 2. No quantity of dangerous petroleum exceeding forty gallons shall be imported, or transported, or kept by any one person, or on the same premises, except under and in accordance with the conditions of a licence from the local authority; and such licence shall be granted as next hereinafter provided.

Application for licence to import, transport or possess such petroleum. 3. Every application for such licence shall be in writing, and shall declare—

- (a) the quantity of such petroleum which it is desired to import, transport, or possess, as the case may be ;
- (b) the premises at and the vessels in which such petroleum is to be stored;
- (c) the purpose for which the applicant believes such petroleum will be used; and
- (d) that petroleum other than dangerous petroleum cannot be used for such purpose.

4. If the local authority sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, he may grant such licence for the importation, transport, or possession, as the case may be, of such petroleum, absolutely or subject to such conditions as he thinks fit.

Power to grant licence.

5. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a licence from the local authority:

Transport of dangerous petroleum.

Provided that nothing in this section shall apply in any case where the quantity of such petroleum kept by any one person, or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped.

6. All dangerous petroleum—

- (a) which is kept at any place after seven days from the date on which it is imported ; or
- (b) which is transported; or
- (c) which is exposed for sale,

Vessels containing dangerous petroleum to be labelled.

shall be contained in vessels which shall bear a label in conspicuous characters in the Sinhala, Tamil and English languages, stating the nature of the contents thereof, with the addition of the words "highly inflammable", and with the addition—

- (d) in the case of a vessel kept, of the name and address of the consignee or owner;
- (e) in the case of a vessel transported, of the name and address of the sender; and
- (f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

PETROLEUM GENERALLY

Owner or master of ship carrying petroleum to give notice on entering into port.

7. The owner or master of every ship carrying a cargo, any part of which consists of petroleum, on entering any port of Sri Lanka shall give notice of the nature of the cargo to the principal officer of customs of such port.

Power to make rules as to the importation of petroleum.

8. The Minister may, from time to time, make rules consistent with this Ordinance to regulate the importation of petroleum, and in particular—

- (a) to determine the ports at which only petroleum may be imported ;
- (b) to ascertain the quantity and description of any petroleum on board any ship;
- (c) to determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped, or stored ;
- (d) to provide for the selection by an officer specially appointed thereto by the Minister in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed ;

(e) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;

(f) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

(g) to fix fees for the sampling and testing of petroleum; and

(h) to fix fees for the storage of petroleum.

9. Petroleum discharged into boats or landed in accordance with rules made under section 8 shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Minister in this behalf with such apparatus and in such manner as may be prescribed, from time to time, by the Minister by rules under section 19 and until the officer has given a certificate that the petroleum is not dangerous petroleum,

Procedure after petroleum has been discharged or landed. Testing of samples.

10. If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Minister may permit the consignee, within a time to be fixed by him in this behalf—

Minister may allow consignee to apply for a new licence, or to rectify, or re-export.

- (a) to rectify the petroleum;
- (b) to apply for a licence to import the petroleum as dangerous petroleum; or
- (c) to re-export the petroleum.

11. If the consignee does not within the time fixed under section 10 avail himself of the permission granted under that section, the petroleum may be disposed of as the Minister directs:

When Minister may dispose of petroleum.

Provided, however, that the Minister may, in his discretion, when the officer has

refused the certificate, direct that the petroleum be retested by another officer appointed by him in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

12. No quantity of petroleum exceeding fifty gallons shall be kept by any one person or on the same premises, or shall be transported, except under and in accordance with the conditions of a licence from the local authority:

Provided that nothing in this section contained shall extend to the possession or transportation of oil ordinarily used as liquid fuel, and having its flashing point at or above the temperature for the time being fixed by notification in the Gazette by the Minister.

13. The Minister may, from time to time, make rules consistent with this Ordinance as to the granting of licences to possess or transport petroleum in cases where such licences are herein required. Such rules may provide for the following among other matters, that is to say:—

(a) In the case of licences to possess petroleum—

(i) the nature and situation of the premises for which they may be granted ; and

(ii) the inspection of such premises, and the testing of petroleum found thereon.

(b) In the case of licences to transport petroleum—

(i) the manner in which the petroleum shall be packed, the mode and time of transit, and the route by which it is to be taken; and

(ii) the stoppage and inspection of it during transit.

(c) In the case of both such licences—

(i) the fee to be charged for it;

(ii) the quantity of petroleum it is to cover;

(iii) the conditions which may be inserted in it;

(iv) the time during which it is to continue in force ; and

(v) the renewal of the licence.

14. Any officer specially authorized, by name or by virtue of his office in this behalf, by the local authority, may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of such petroleum on payment of the value of such samples.

Power to inspect and require dealers to sell samples.

15. When any such officer has, in exercise of the powers conferred by section 14, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to such dealer informing him that he is about to test such sample, or cause the same to be tested, with such apparatus and in such manner as may be prescribed, from time to time, by the Minister by rules under section 19, at a time and place to be fixed in such notice, and that such person or his duly authorized agent may be present at such testing.

Notice to be given when officer proposes to test samples.

16. On any such testing, if it appears to the officer or other person so testing that the petroleum from which such sample has been taken is or is not dangerous petroleum, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Ordinance against the dealer in whose possession such petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein ; and a certified copy of such certificate shall be given gratis to the dealer at his request.

Certificate as to result of such testing.

17. Any person who is licensed to keep petroleum may, subject to any enactment for the time being in force with respect to

Power to hawk petroleum.

Possession and transport of petroleum.

Power to make rules as to possession and transport of petroleum.

hawkers and peddlers, hawk such petroleum by himself or his servants :

Regulations for hawking petroleum.

Provided he observes the following regulations:—

- (a) the quantity of petroleum conveyed at one time in any one carriage shall not exceed twenty-four gallons, except when conveyed in a cart specially constructed for the purpose, which has been licensed by writing under the hand of the local authority for the conveyance of petroleum;
- (b) the petroleum shall be conveyed in a closed vessel or cart so constructed as to be free from leakage;
- (c) proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or of the curtilage thereof, or into a drain or sewer;
- (d) all due precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorized persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking;
- (e) no article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the purpose of hawking petroleum.

Minister may make rules regarding the licensing of carts for the conveyance of petroleum.

18. The Minister may, from time to time, make rules regarding the licensing of carts for the conveyance of petroleum. Such rules may provide for the following, among other matters:—

- (a) the fee to be charged for the licence;
- (b) the maximum quantity of petroleum which may be carried in a licensed can;

(c) the conditions which may be inserted in the licence;

(d) the time during which the licence is to continue in force; and

(e) the renewal of the licence.

19. The Minister may, from time to time, make rules prescribing—

- (a) the apparatus which shall be used for testing petroleum for the purpose of ascertaining the flashing point thereof;
- (b) the manner in which the petroleum shall be tested by such apparatus ;
- (c) the corrections which shall be applied to the result of any test so conducted; and
- (d) all other matters connected with or incidental to the use of the apparatus or the conduct of the test.

Rules as to apparatus and tests for determining flashing point.

PENALTIES

20. Any person who in contravention of this Ordinance, or of any rules made hereunder, imports, possesses, or transports any petroleum, and any person who otherwise contravenes any such rules or any conditions contained in a licence granted hereunder, shall be punished with simple or rigorous imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for illegal importation, &c., of petroleum.

21. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not marked or labelled as prescribed by section 6, shall be punished with a fine which may extend to five hundred rupees.

Penalty for keeping, transporting, selling, &c., petroleum in contravention of section 6.

22. Any owner or master of a ship who fails to give the notice required by section 7 shall be punished with a fine not exceeding five thousand rupees, unless it is shown to the satisfaction of the court before which the case is tried that he did not know the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Penalty for owner or master of a ship failing to give the required notice.

Penalty for refusing to comply with section 14.

23. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section 14 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of such petroleum on payment of the value of such samples, shall be punished with a fine which may extend to two hundred rupees.

Penalty for hawking in contravention of section 17.

24. In the event of any contravention of section 17 with reference to any petroleum, the licensee, by whom or by whose servants the petroleum was being hawked, shall be liable, on summary conviction, to a penalty not exceeding two hundred rupees :

Provided that—

- (a) where some servant of the licensee or other person has in fact committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee;
- (b) where the licensee is charged with the contravention of section 17, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if the licensee proves to the satisfaction of the court that he had used due diligence to enforce the requirements of the said section, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence and the licensee shall be exempt from any penalty.

Prosecution to be instituted in Magistrate's Court.

25. Every prosecution under this Ordinance or for the breach of any rules made hereunder may be instituted before the Magistrate of the division in which the offence was committed wholly or in part, or where the offender is found ; and it shall be lawful for such Magistrate to impose the full fine or penalty provided herein or in any rule made under the provisions of this

Ordinance, notwithstanding that such fine or penalty may exceed the sum which it is competent for him in the exercise of his summary jurisdiction to award.

26. In any case in which an offence under sections 17, 20, or 21 has been committed, the convicting Magistrate may direct that—

Confiscation of petroleum.

- (a) the petroleum in respect of which the offence has been committed ; or
- (b) where the offender is importing, transporting, hawking, or is in possession of any petroleum exceeding the quantity, if any, which he is permitted to import, transport, hawk, or possess, as the case may be, the whole of the petroleum which he is importing, transporting, hawking, or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

27. All confiscations may be sold or otherwise disposed of in such manner as the Magistrate may direct.

Confiscations to be sold, &c., as Magistrate may direct.

MISCELLANEOUS

28. All rules made by the Minister under this Ordinance shall be published in the Gazette, and shall on the expiry of one month from the date of such publication, have the force of law. Such rules may, from time to time, be altered, amended, or repealed by the Minister, and notice of such alteration, amendment, or repeal shall likewise be published in the Gazette.

Rules when to have force of law.

29. The Minister may, from time to time, by notification in the Gazette—

Minister may exempt petroleum from operation of this Ordinance may apply this Ordinance to other fluids, and limit operation of enactments relating to Municipalities, Urban Councils, or Town Councils.

- (a) exempt from the operation of all or any of the rules made under this Ordinance any petroleum which has its flashing point at one hundred and twenty degrees of Fahrenheit's thermometer, and is imported as ordinary cargo, and in quantity not exceeding that specified in the notification;

(b) apply the whole or any portion of this Ordinance to any substance other than petroleum, and fix in substitution for the quantities of petroleum fixed by sections 2, 5 and 12 the quantities of such substance to which those sections shall apply;

(c) limit in any manner he deems fit the operation of any enactment for the time being in force relating to Municipalities, Urban Councils, or Town Councils, and the exercise of any powers conferred by any such enactment in so far as it relates to the possession or transport of petroleum.

Power to revoke or vary Notification.

30. A notification made by the Minister under this Ordinance may be revoked or varied by a like notification published in the same manner as the notification so revoked or varied.

Magistrates may grant search warrants for petroleum.

31. When any Magistrate is satisfied, by information on oath or affirmation, that there is reasonable ground to believe that any petroleum is being imported, kept, transported, sold, or exposed for sale within his jurisdiction in contravention of this Ordinance or of any rules made thereunder, at any place, whether a building or not, or in any ship or carriage, such Magistrate shall grant a search warrant, by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or carriage named in such warrant, and every part thereof and examine the same and search for petroleum therein, and take samples of any petroleum found therein; and if any petroleum be found therein which is imported, kept, transported, sold or exposed for sale in contravention of this Ordinance or of any rules made thereunder, to seize and remove such petroleum and the vessel containing the same, and to detain such petroleum and vessel until the court having jurisdiction in the matter has determined whether the same shall or shall not be confiscated, the proceedings for which confiscation shall be commenced forthwith after the seizure. Any person seizing any petroleum in pursuance of this section shall not be liable to any suit for detaining the same, or for any loss or

damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect.

32. Where a police officer has reasonable cause to believe that a contravention of section 17 is being committed in relation to any petroleum, he may seize and detain such petroleum and the vessels and carriage containing the same until the court has determined whether there was or was not a contravention of the said section, and section 31 shall apply to such officer as if he were the person named in the warrant mentioned in that section, and as if the seizure were a seizure in pursuance of that section.

Power of police officers to seize and detain petroleum for contravention of section 17.

33. Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Ordinance, may be proved by the defendant, but need not be specified or negatived in the plaint or information; and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

Burden of proof as to exceptions, exemptions, &c.

34. The Minister may, from time to time, make, and when made may revoke, vary, or amend special regulations for the keeping, transport, and use of petroleum or dangerous petroleum for the purposes of aircraft, motor cars, motor cycles, and launches ; all regulations so made shall have effect, notwithstanding anything in this Ordinance or in any regulation made thereunder.

Special regulations with regard to petroleum for motor cars. &c.

35. Every local authority may delegate the power to sign licences issued by such authority under this Ordinance to any person authorized in writing by that authority.

Delegation by local authority of power to sign licences to other persons.

36. In this Ordinance, unless the subject or context otherwise requires—

Interpretation.

"carriage " means any carriage, wagon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled, but does not include any carriage, wagon, or truck employed on the railway;

"dangerous petroleum " means petroleum of which the flashing point is below the temperature for the time being fixed by notification in the Gazette by the Minister;

"flashing point" means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested with such apparatus and in such manner as may be prescribed, from time to time, by the Minister by rules under section 19 ;

a person shall be deemed for the purposes of this Ordinance to "hawk" petroleum, if by himself or his servants he goes about carrying petroleum to sell, whether going from district to district, or town to town, or village to village, or to other men's houses, or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden ;

" local authority" means any officer appointed by the Minister to issue licences under this Ordinance ;

" master " includes every person, except a pilot or harbour master, having for the time being the charge or control of a ship;

" person " includes a body corporate ;

" petroleum " includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosene, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid that is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer;

" ship " includes anything made for the conveyance by water of human beings or property;

" transport" means to remove from one place to another within Sri Lanka.