

PUBLIC OFFICERS' (SECURITY)

AN ORDINANCE RELATING TO THE GIVING OF SECURITY BY
PUBLIC OFFICERS IN THE EMPLOYMENT OF THE
GOVERNMENT OF SRI LANKA.

Ordinance Nos,

14 of 1890
12 of 1897
9 of 1903
10 of 1928
15 of 1935
10 of 1939
29 of 1943

Act Nos,

5 of 1950
19 of 1951
27 of 1952
4 of 1968
30 of 1971

- Short title. **1.** This Ordinance shall be called the Public Officers' (Security) Ordinance,
- Different ways in which public officers may give security **2.** Every person in the employment of the Government of Sri Lanka who is required to give security for the due discharge in any respect of any duties to be performed by him in the course of such employment, shall give security according to the provisions of this Ordinance, in one or more of the following ways as the Secretary to the Ministry or an officer authorized by him may in each case determine, and not otherwise, namely;
- By personal bond and deposit with the Secretary to the Ministry to the extent required of public securities or of savings deposit of certificates issued under the National Savings Bank Act, duty securities or endorsed in favour of the said Secretary to the Ministry, or by money. [86, 30 of 1971] personal bond and lodgement of moneys in the National Savings Bank, or any commercial bank approved by the Deputy Secretary to the Treasury, to such extent in the name of the said Secretary to the Ministry;
- By personal bond and periodical payments. (b) by personal bond and by the deposit of moneys or the making of periodical payments in accordance with the terms of such bond ;
- By personal bond and of any guarantee of association of public servant. (c) by personal bond and the guarantee of any association of public officers for purposes of mutual guarantee, whereof the business is conducted according to rules, from time to time, approved by the Minister in charge of the subject of Finance and published in the Gazette ;
- By personal bond and guarantee of the (d) by personal bond and the guarantee of the Insurance Corporation : Provided, however, that
- the (i) any grama seva niladhari, or

Insurance Corporation.
[2, 4 of 1968]

(ii) any other officer or class of officers approved by the Deputy Secretary to the Treasury, may give such security either in the manner hereinbefore provided or by the hypothecation of immovable property to the satisfaction of the Secretary to the Ministry.

Form and amount of bond or other instrument.
[86, 30 of 1971]

4. All bonds and all instruments relating to security under this Ordinance shall be in such form as may be prescribed by the Secretary to the Treasury and for such amount as may be fixed by the Secretary to the Ministry or an officer authorized by him, except as to any amount which may be fixed by law. The amount of the deposit in the National Savings Bank, or any commercial bank approved by the Deputy Secretary to the Treasury, the aggregate amount of the deposits or periodical payments made, and the value of the securities deposited under this Ordinance by any public officer, shall be the same as the amount of the bond given by such Officer(* Section 3 is repealed by Act No. 4 of 1968.)

Bonds to be attested, approved, and recorded.

5.

(1) Every such bond or instrument of securityship given under this Ordinance shall be attested by any District Judge, Judge of a Primary Court, or Justice of the Peace, or by two subscribing witnesses, and when endorsed by any State Counsel as being in due form shall be recorded in the office of the Secretary to the Ministry, and shall then be delivered to the Secretary to the Ministry for safe keeping.

Free of stamp duty Evidence thereof.

(2) Such bond or instrument shall not be subject to stamp duty, and the production of every such bond or instrument, or the record thereof, or any attested copy of such record, shall be sufficient prima facie evidence of its execution without proof by the officer or witnesses attesting the same.

Receipt for deposit.
[86, 30 of 1971]

6.

(1) The Secretary to the Ministry shall give to any officer who deposits securities or lodges money in the National Savings Bank or any commercial bank approved by the Deputy Secretary to the Treasury under section 2 of this Ordinance, a receipt for the same in such form as may be prescribed by the Secretary to the Treasury.

Interest. Principal of deposit refunded.

(2) The depositor shall, unless and until the condition of his bond is broken, be entitled to receive from the Secretary to the Ministry the deposit when interest on the securities or money so deposited as such interest becomes due from time to time, and shall, unless the condition of the bond is broken, be entitled to receive back from the said Secretary to the Ministry, on obtaining the certificate of the said Secretary to the Ministry under section 11 of this Ordinance, the securities or money so deposited by him.

(3) The securities and money so deposited, and any interest which may become due after a breach of the depositor's bond, may be applied by the order of the Deputy Secretary to the Treasury in payment of any sums of money for which judgment shall be recovered against the depositor on his bond, or if the depositor is absent from Sri Lanka or his residence is not known, may be applied

by the order of the Deputy Secretary to the Treasury, without any legal proceedings, in payment of the amount for which judgment might be recovered against the depositor on his bond, if he were in Sri Lanka and his residence were known.

(4) Neither depositors nor their representatives shall, in any case or under any circumstances, have any right to require the return of securities or money deposited under section 2 of this Ordinance, or of any portion thereof, until they have obtained the certificate of the Secretary to the Ministry under section 11 of this Ordinance.

On breach of bond and payment by guarantors, bond may be assigned to them.
[4,4 of 1968]

7. (1) When there shall have been a breach of the condition of any bond given under this Ordinance, and any mutual guarantee association or the Insurance Corporation which has given security under this Ordinance, shall have paid the whole amount of such bond or such lesser amount as the State may claim from such mutual guarantee association or the Insurance Corporation, such mutual guarantee association or the Insurance Corporation shall be entitled to have such bond assigned to them or to a trustee for them, and be entitled after such assignment to sue on such bond in their own names or in the name of the trustee:

Limit of amount to be recovered. Provided that they shall not recover in any such action an amount larger than sum they have actually paid as sureties.

How bond to be assigned. (2) Such assignment shall be made by the Secretary to the Ministry by endorsement on the bond or otherwise as he may think fit. The assignment shall bear the stamp, to be paid for by the assignee, to which an ordinary assignment of such bond would be liable.

Evidence thereof. (3) In any action or suit on any bond assigned under this section judicial notice shall be taken of the signature of the Secretary to the Ministry.

Promised guarantee not person to privileges of office.
[5, 4 of 1968]

8.

(1) No promised guarantee of the insurance Corporation or of any association shall entitle any public officer to any privileges of office that are dependent upon his being guaranteed, nor shall he become entitled to any such privileges until the policy of guarantee or other instrument legally binding the Insurance Corporation or association shall have been actually executed and recorded in the office of the Secretary to the Ministry. Office vacated if security not given within three months, or within any shorter period fixed by the Secretary to the Ministry or an officer authorized by him.

(2) If any public officer required to give security under this Ordinance shall improperly neglect to give such security for three months, or for such shorter time as may be fixed by the Secretary to the Ministry or an officer authorized by him, his

office shall be deemed vacated and a fresh appointment may be made thereto.

Security under this Ordinance sufficient in all cases.

9. Security given under Ordinance shall, so far as concerns the form and nature of the security, be deemed a sufficient security by any public officer required by law to give security for the due discharge in any respect of any duties to be performed by him in the course of his employment by the Government of Sri Lanka whether the law hitherto in force does or does not specify any particular kind of security.

In what cases fresh security may be required by the Secretary to the Ministry or an officer authorized by him.

10. It shall be lawful for the Secretary to the Ministry or an officer authorized by him, in any case in which security already given, either before or after the passing of this Ordinance, is, in his opinion, insufficient to secure the amount intended to be secured, to require fresh security under this Ordinance.

Bonds and guarantees, and deposits returned on certificate of the Secretary to the Ministry.

[86,30 of 1971]

11 (1) Any public officer who has given security under this Ordinance, or his representatives, and the sureties of such officer, shall be entitled, on obtaining the written certificate of the Secretary to the Ministry to the effect that there is no claim against such officer in respect of any breach of his bond, to have returned to him and them, the bonds or other instruments executed by him or them, and also to have satisfaction entered on the margin of the records of the said bonds or instruments; and such person or his representatives shall also be entitled to have given back to him or them any deposit or portion of any deposit, as the case may be, of securities or of money in the National Savings Bank or any commercial bank approved by the Deputy Secretary to the Treasury, made by him under this Ordinance.

(2) The Secretary to the Ministry shall not give such certificate unless and until he shall be satisfied by the due auditing of accounts of such public officer, or by due inquiry otherwise, as the Deputy Secretary to the Treasury may see fit to direct, that such person and his sureties have fully performed the conditions of their bonds or other instruments, or have fully discharged all liabilities in respect of any breach thereof, and that such person is entitled to a final discharge from his office.

(3) In the case of depositors against whom the State has a claim which may be satisfied by a portion only of the deposit, the Secretary to the Ministry may give a certificate stating that the depositor is entitled to a final discharge only after a portion of the deposit, specifying what portion, has been applied in satisfaction of such claim, and the depositor shall thereupon be entitled to have returned to him the remaining portion of the

Rules relating to
Personal bond and
deposit of moneys or
periodical, payments.

12.

deposit.

(1) In respect of the way or method, referred to in section 2, of giving security by personal bond and by the deposit of moneys or the making of periodical payments in moneys or accordance with the terms of such bond, the Secretary to the Treasury may make rules applicable to all departments of the public service generally or to any specified department or to any specified public officer or class of public officers, for all or any of the following purposes;

(a) for prescribing the amount of the security to be given ;

(b) for prescribing the form and the mode of execution and attestation of the personal bond, and the authority or officer to whom the bond is to be delivered for safe keeping ;

(c) for prescribing the amount of the initial deposit or payment, the rates and the intervals at which further deposits or periodical payments are to be made, the manner in which and the authority or officer with or to whom such deposits or payments are to be made, and the manner in which the receipt of such deposits or payments is to be acknowledged, and the accounts thereof are to be kept, by such authority or officer;

(d) for authorizing the crediting of interest on the aggregate amount of the deposits or payments standing to the credit of each officer, until the full amount of the prescribed security is deposited or paid by him, and the payment to such officer of the interest accruing thereafter; and for prescribing, in any case where no express provision is made by any other written law, the mode of determining the rates and the intervals at which such interest is to be credited or paid, and the form of the interest certificate to be issued to each officer;

(e) for authorizing, in the case of any department of the public service in respect of which no express provision is made by any other written law, the formation of a fund to which the deposits or periodical payments made by the officers of that department may be credited ; for providing for the administration of such fund ; and for prescribing the form or nature of the accounts to be kept in connexion therewith and the intervals at which such accounts are to be audited ;

(f) for prescribing the securities in which, and the conditions subject to which, the whole or any part of any fund formed under the authority of any rule made under this section, or, where no such fund has been formed, the whole or any part of the deposits or payments made by the officers, may be invested ;

(g) for prescribing the circumstances and the manner in which the whole or any part of the deposits or payments and interest standing to the credit of any officer may be appropriated by order of the head of the department to which the officer belongs, in order to meet any loss incurred by the State by reason of any default or omission or any dishonest or negligent act on the part of the officer;

(h) for prescribing the circumstances in which the whole or any part of the deposits or payments and interest standing to the credit of any officer may be declared forfeit to the State;

(1) for prescribing the terms and conditions on which a public officer may be permitted to withdraw the amount of the deposits or payments and interest standing to his credit after his retirement, resignation or dismissal from office;

(j) for suspending or modifying the application of such of the provisions of sections 4 to 10, inclusive, as may relate to any of the purposes for which rules are made under this section; and

(k) generally for all purposes incidental to or connected with the purposes specifically mentioned in this subsection.

(2) Every rule made by the Secretary to the Treasury under this section shall be published in the Gazette and shall come into operation upon the date of such publication.

Interpretation. **13.** In this Ordinance,

[6,4 of 1968]

Insurance Corporation means the Insurance Corporation of Ceylon established by the Insurance Corporation Act.