

PUBLIC SERVICE PROVIDENT FUND

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF A PROVIDENT FUND, FOR THE GRANT THEREFROM OF BENEFITS TO CERTAIN NON-PENSIONABLE EMPLOYEES OF THE GOVERNMENT, AND FOR OTHER MATTERS INCIDENTAL TO OR CONNECTED WITH THE PURPOSES AFORESAID.

Ordinance Nos, [1st April , 1942]

18 of 1942
23 of 1947

Short
title.

1 This Ordinance may be cited as the Public Service Provident Fund Ordinance.

Law Nos,

37 of 1975
32 of 1978

Act Nos,

33 of 1952
46 of 1954
52 of 1961
35 of 1964
18 of 1965
38 of 1971

45 of 1999 [10th December , 1999]

17 of 2003 [4th April , 2003]

Establishment **2.**
of the fund.

[2, 52 of 1961]
[2, 45 of 1999]
[2, 17 of 2003]

(1) A fund to be known as the public Service Provident Fund is hereby established for the grant of benefits, as hereinafter provided, to every non-pensionable employee in the service of the Government whose salary is payable at a monthly rate. Such employee is hereafter in this Ordinance referred to as a " non-pensionable employee ".

[2 Law 37
of 1975]

(2) A general account for the fund and a separate account for each contributor to the fund shall be opened and kept in such manner as the Director of Pensions may direct.

[2, 35 of
1964]

(3) For the purposes of this Ordinance, each of the persons specified hereunder shall be deemed to be a non-pensionable employee in the service of the Government and the allowance paid in lieu of salary to each such person shall be deemed to be a salary:

The Private Secretary to the Chief Justice.

The Private Secretary to any Judge of the Supreme Court other than the Chief Justice.

The Private Secretary to the President of the Court of Appeal or to any other Judge of the Court of Appeal.

[2, Law
32 of
1978]

(4) For the purposes of this Ordinance, a person holding the post of Sub-Postmaster shall be deemed to be a

non- pensionable employee in the service of the Government and the monthly allowance paid in lieu of salary to such person shall be deemed to be a monthly salary.

(4A) for the purposes of this Ordinance, a person who holds-

(a) the post of Sub-Station Master in the Railway Department; or

(b) a post in the Sri Lanka Police Reserve,

shall be deemed to be a non-pensionable employee in the service of the Government and the monthly allowance paid in lieu of salary to such person shall be deemed to be a monthly salary.

(4B) In respect of a person who holds a non-pensionable post in the service of the Government and who is entitled for a daily

(a) the total of the daily payments made to such person during a calendai month or part thereof; or

(b) the monthly allowance paid to such person in lieu of a salary for that period.

shall be deemed to be the monthly salary of such person

[2, Law
37 of
1975]

(5) Notwithstanding anything in this Ordinance any non-pensionable employee, not being a citizen of Sri Lanka, employed in any Sri Lanka mission abroad may, at his option, be exempted by the board of management from his liability to make contributions under this Ordinance, and where such employee had been a contributor under this Ordinance prior to the date he is so exempted, his account in the fund shall be closed and he shall be paid such amount as would have been paid to him under section 14 of this Ordinance if he had left the service on satisfactory completion of his contract.

Past services of **2A.** Where any person who is a graduate of a University and who held a

graduates in posts pensionable post under the Government, resigned from such post to to by treated as undergo training under the Graduate Training Scheme, and upon service. completion of the period of such training was appointed to a monthly paid post under the Government such person's previous service under the Government in a monthly paid post shall be deemed to be service in respect of which contributions are payable under this Ordinance and accordingly the provisions of this Ordinance shall apply to and in relation to such previous service of such person.

[3,37 of 1975]

Control and management of the fund.

3.

(1) The control and management of the fund are hereby vested in a board of management consisting of

(a) the Director of Pensions;

(b) the Solicitor-General;

(c) two persons, each of whom is the head of a department of Government or the deputy or principal assistant to the head of such a department; and

(d) one person who is a contributor to the fund.

(2) The persons referred to in paragraphs (c) and (d) of subsection (1) shall be appointed to the board by the Minister in charge of the subject of Public Administration.

(3) The Director of Pensions shall be the chairman of the board.

Compulsory contributions to the fund. (4, Law 37 of 1975]

[3, 45 of 1999]

[3, 17 of 2003]

4.

(1) Every non-pensionable employee shall, until the termination of his service with the Government, pay each month, as a compulsory contribution to the fund, eight per centum of his consolidated salary.

(2) The compulsory contribution of a non-pensionable employee for any month shall be calculated on the monthly salary of such employee, notwithstanding that the amount received as salary for that month is less than the monthly salary or that no amount whatever is received by way of salary for that month:

Provided that where a contributor is on half-salary or no salary for a period exceeding two months continuously, he may elect to contribute, in respect of that part of the period which exceeds two months, at the rate of eight per centum of any salary which he receives.

(2A) The compulsory contribution of a non-pensionable employee referred to in subsection (4n) of section 2, shall be, calculated on the basis of the monthly salary received by such person in accordance with the aforesaid subsection.

(3) The contribution required or authorized to be paid by a non-pensionable employee under the preceding provisions of this section, shall be deducted from the salary of such

employee and paid to the fund.

Voluntary contributions to the fund.

[5,37 of 1975]
[4, 45 of 1999]

5. Subject as hereinafter provided and subject to such conditions as may be prescribed, a non-pensionable employee may, in addition to his compulsory contribution, pay as a voluntary contribution to the fund an amount not exceeding eight per centum of his monthly salary:

Provided that the rate at which any such voluntary contribution is calculated shall not be varied except at half-yearly intervals.

Bonuses, **7.**

(1) At the close of each financial year, the general account of the fund shall be credited by the Deputy Secretary to the Treasury with a sum equivalent to one and a half times the aggregate of the compulsory contributions made by all the contributors during that financial year ; and the separate account of each contributor shall be provisionally credited with a sum equivalent to one and a half times the aggregate of the compulsory contributions made by him during that financial year. (*Section 6 is repealed by Act No. 52 of 1961.)

(2) Each sum so credited to the separate account of a contributor shall be called a bonus.

Premiums on life policies may be regarded as contributions to the fund.

8.

(1) Every contributor may, in lieu of the whole or any portion of the compulsory contribution under section 4, pay an equivalent sum towards a policy of assurance on his own life in the manner and subject to such conditions as may be prescribed by regulation.

(2) Such payment shall be deemed to have been contributed to the fund for the purpose of calculating any bonus under section 7, but not for the purpose of the calculation or payment of interest under sections 11, 12 and 14.

(3) No premium paid on or in respect of a policy of life assurance shall be deemed, under subsection (1), to be paid to the fund, if, at the time such premium is paid, the policy has been assigned or is subject to any hypothecation or charge whatsoever.

(4) In this section, " policy of life assurance" means a policy issued to a contributor by an insurer approved by the board whereby the payment of a fixed sum is assured on the death of the contributor or on his attaining the age of fifty-five years or any higher age specified in the policy.

Investment of moneys paid into the fund.

9. Moneys paid into the fund shall, so far as practicable, be invested by the Director of Pensions, with the approval of the board, in the securities prescribed in section 20 of the Trusts Ordinance for the investment of trust property which consists of money.

Cost of establishment to be met from Consolidated Fund.

10. The cost of establishment and other expenses incidental to the management and administration of the fund (all hereinafter referred to as " the cost of establishment ") shall, subject to the refund to the Consolidated Fund referred to in section 11 (3), be met from the

Consolidated Fund.

Examination of the
accounts of the fund and
apportionment of profit
or loss. **11**

(1) The board shall, as soon as may be after the thirty-first day of December in each year, cause an examination to be made of the general account of the fund as on that date and ascertain the profit made or loss incurred for the financial year ending on that date.

(2) Where the examination referred to in subsection (1) discloses a loss for any financial year, the amount of such loss shall be debited by the board to the accounts of the contributors to the fund in proportion to the amounts standing to their credit in the fund at the close of that financial year.

(3) Where the examination referred to in subsection (1) discloses a profit for any financial year, such profit shall be apportioned by the board, as far as may be, for the purposes hereinafter set out and in the order in which such purposes are respectively mentioned:

(a) the payment of interest to the accounts of contributors in proportion to the amounts standing to their credit in the fund at the close of that financial year up to a maximum of two and a half per centum of the amounts so standing to their credit:

(b) the refund to the Consolidated Fund of the cost of establishment for that financial year;

(c) the payment of interest to the accounts of the contributors in proportion to the amounts standing to their credit in the fund at the close of that financial year.

The amounts apportioned under paragraphs (a) and (c) shall be sufficient to pay interest on the amounts to the credit of the contributors in the fund at integral, half or quarter rates per centum or any combination of such rates, but at no smaller fractional rate. Any amount of profit insufficient to provide interest at a quarter per centum shall be carried forward to the following financial year.

Interest. **12.** Interest payable to the account of a contributor shall be credited separately on compulsory contributions, voluntary contributions and bonuses, and shall begin to accrue in respect of each sum contributed and each bonus on the first day of the month next following the date on which the contribution was made or the bonus credited. Such interest shall be calculated in each year to the thirty-first day of December and shall then be added to and become part of the principal and be deemed for the purposes of this Ordinance to be compulsory contribution, voluntary contribution or bonus, as the case may be.

Closing of **13.**
accounts.

(1) On the death of a contributor or the termination of the contributor's service in any non-pensionable post on any date in any financial year

(a) interest up to the end of the month previous to that date calculated at the rate at which interest was credited to the account of that contributor in respect of the last preceding financial year; and

(b) in the event of his death or termination of his service in any of the circumstances in which section 14 applies, bonuses for that financial year equal to one and a half times the compulsory contributions made by the contributor during that financial year,

shall be credited to his account, which shall then be closed:

Provided that where any contribution under section 4 which was due from such contributor before such date has not been paid to the fund before such date, the interest and bonuses referred to in paragraphs (a) and (b) of this subsection shall be credited to his account, but such account shall not be closed till such time as shall be determined by the board in order that such contribution may be deducted from his salary and paid, or be otherwise paid to the fund ; and if such contribution is paid to the fund before such account is closed, the fund shall be credited by the Deputy Secretary to the Treasury with a sum equivalent to one and a half times such contribution, and such account shall be credited with a bonus equivalent to one and a half times such contribution, and such account shall then be closed.

(2) Notice of such closure shall thereupon be given

(i) if the contributor is living, to the contributor; or

(ii) if the contributor is dead, to such person or persons mentioned in section 17 to whom it shall appear to the Director of Pensions that notice should properly be given ;

and, in either case, to such other persons as shall or may, in the opinion of the Director of Pensions, reasonably require such notice.

Payment of benefits on death or termination of service.

14. Subject to the provisions of this Ordinance, if a contributor dies while in the service of the Government or leaves the service in any of the following circumstances, that is to say :

(1) retirement on medical evidence to the satisfaction of the President, or, where it is competent for the head of the department in which the contributor served to order his retirement, to the satisfaction of such head of department, that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office;

(2) satisfactory completion of contract;

(3) abolition of office ;

(4) retirement on account of age;

(5) determination of contract by, or with the consent of, the Government otherwise than by dismissal;

(6) in the case of a female contributor, retirement with a view to, or in consequence of, marriage after not less than three years' service (subject to the production of evidence of marriage within such period after retirement as may be prescribed);

[6, Law 37 of 1975]

(7) retirement approved by the Minister in charge of the subject of Public Administration on any grounds other than those specified in the preceding paragraphs,

the amount standing to his or her credit in the fund at the closing of such account shall, subject as hereinafter provided, be paid to the contributor or any other person to whom by virtue of this Ordinance or otherwise payment may lawfully be made :

Provided that where the aggregate of the compulsory contributions, bonuses and interest thereon standing to his or her credit in the fund is less than the aggregate of

- (a) the compulsory contributions paid by the contributor to the fund ;
- (b) the bonuses credited to the account of the contributor in the fund ; and
- (c) compound interest at two and a half per centum per annum on the compulsory contributions paid by the contributor to the fund and on the bonuses credited to his account in the fund. a sum equivalent to the difference between such aggregates shall be paid out of the Consolidated Fund to the contributor or to such other person to whom by virtue of this Ordinance or otherwise payment may lawfully be made.

Power to modify paragraph (6) of section 14 in the case of female employees.

15. The Minister in charge of the subject of Public Administration may, by Order published in the Gazette, direct that in the case of a female contributor of any such class or description as may be specified in the Order the minimum service required by paragraph (6) of section 14 shall be five years' service in lieu of the three years' service specified in that paragraph, and in every such case the provisions of that paragraph shall apply accordingly.

Payment of benefits on dismissal or discontinuance or termination of service in any circumstances other than those in which section 14 applies.

16. Subject to the provisions of this Ordinance, if a contributor is dismissed, or discontinued on the ground of inefficiency or misconduct or leaves the service of the Government in any circumstances other than those in which section 14 applies

(a) the amount of his contributions to the fund and interest thereon shall be paid to the contributor;

[7, Law 37 of 1975]

(b) all bonuses and interest thereon provisionally credited to the account of the contributor shall be credited to the Consolidated Fund :

Provided, however, that in the special circumstances of any particular case, the Minister may in his discretion, direct that such bonus and interest or any specified portion thereof be paid to the contributor.

Payment on death of a **17.**

(1) subject to the provisions of this Ordinance on the death of the

contributor,
[8, Law 37 of 1975]
[4, 17 of 2003]

contributor:

(a) if the amount payable does not amount to or does not exceed in value the sum specified by the provisions of civil procedure code (Chapter 10) as being the sum above which the institution of testamentary proceedings is mandatory, the Director of Pensions shall pay such amount in the manner prescribed to the person or person nominated by the deceased contributor for such purpose if no such nomination has been made, such amount can either be paid by the Director of Pensions to the person or persons entitled by law to receive the same or where a case lot the settlement of the estate of the deceased contributor has been filed such amount shall be paid to the credit of the case .

(b) if the amount payable exceeds in value the sum specified by the provisions of the Civil Procedure code (Chapter 101) as being the sum above which the institution of testamentary proceedings is mandatory, the Director of Pensions shall pay such amount to the credit to the testamentary case filed for the settlement of the estate of the deceased contributor:

Provided however the Director of Pensions may at his discretion where it appears that immediate financial relief is essential to the spouse or children or other dependants of the deceased contributor for the settlement of funeral expenses, pay a sum not exceeding ten thousand rupees to the spouse or children or other dependants of the deceased contributor.

(2) Any payment made by the Director of Pensions under this section shall be valid and effectual against any demand made upon the Government, the board or the Director of Pensions by any other person in respect of the amount payable in respect of that contributor.

Bonuses, amp c, to be a charge on consolidated Fund.

18. All bonuses and other moneys authorized to be credited or paid from the Consolidated Fund by or under this consolidated Ordinance shall be charged upon the Consolidated Fund.

Compulsory contributions, amp c, not to be assigned or attached.

19. Subject to the provisions of this Compulsory Ordinance, no compulsory contribution, bonus, or interest on any such contribution or bonus shall be assignable or transferable or liable to be attached, sequestered or levied upon, in execution of any decree or order of any court, for or in respect of, any debt or claim whatsoever.

Appointment of contributor to pensionable office under Government.

[9, Law 37 of 1975]

20. Where a contributor to the fund is appointed to a pensionable office in the public service and enters on the duties of such office

(a) the account of that contributor shall be closed on the day on which he enters on the duties of his new office;

(b) the aggregate amount of the bonuses credited by

Government to the account of that contributor, together with the interest accrued on such bonuses shall be paid to Government out of the fund ; and

(c) the aggregate amount of the compulsory contributions and voluntary contributions, if any, made by that contributor to the fund together with interest accrued on such contributions shall be paid to that contributor out of the fund.

Provisions relating to a contributor who becomes eligible for the grant of a pension under the School Teachers Pension Regulations. (9, 52 of 1961]

20A.

(1) Where a contributor who is an uncertificated Government teacher becomes eligible for the grant of a pension under the School Teachers Pension Regulations published in Gazette No. 7,631 of February 24, 1928 (and therein referred to as " rules "),

(a) the account of that contributor shall be closed on the day on which he becomes so eligible;

(b) the aggregate amount of the bonuses credited by Government to the account of that contributor together with the interest accrued on such bonuses shall be paid to Government out of the fund ;

(c) the aggregate amount of the compulsory contributions and voluntary contributions, if any, made by that contributor to the fund together with interest accrued on such contributions shall be paid to that contributor out of the fund ; and

(d) no award under the Minutes on Pensions shall be made to that contributor in respect of any service as an uncertificated Government teacher which is reckonable for the purposes of any pension payable under the aforesaid Regulations.

(2) In this section, " Government teacher" means a teacher appointed by the Department of Education to a school administered under the Code of Regulations for Government Schools published in the Supplement to Gazette No. 7,726 of August 2. 1929.

Deduction on account of income tax. [56(1),18 of 1965]

22. The Director of Pensions may, before payment is made of moneys lying to the credit of a contributor's account in of the fund, make deductions on account income tax from such moneys. Any sum so deducted shall be paid to the Commissioner-General of Inland Revenue.(* Section 21 is repealed by Law No. 37 of 1975)

Deduction of sums due to Government or to Lady Lochore Loan Fund.

[11, Law 37 of 1975]

23. Before payment is made of moneys lying to the credit of a contributor's account in the fund, any sum or sums due from that contributor to the Government or to the Lady Lochore Loan Fund may be deducted from such moneys.

Accounts and audit **24.**

(1) The Director of Pensions shall keep a separate account for the moneys of the fund. Such account shall be audited by the Auditor-General.

(2) The board shall submit to the Minister in charge of the subject of Public Administration as soon as practicable after the close of each financial year a full statement showing the working of the fund and all claims thereon, and containing full particulars of all transactions connected with the working of the fund.

Information to contributors.

25. As soon as practicable after the close of each financial year, the Director of Pensions shall inform each contributor of the total amount standing to his credit in the fund at that date,

Regulations. **27.**

(1) The Minister in charge of the subject of Public Administration may, after consulting the board, make regulations for the purpose of giving effect to the principles and provisions of this Ordinance. (Section 26 is repealed by Act No. 52 of 1961.)

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), regulations may be made

(a) for or in respect of any matter required to be prescribed ;

(b) for the management and control of the fund;

(c) prescribing a quorum for the board and the procedure to be adopted at meetings of the board;

(d) prescribing the procedure for making deductions from the salaries of contributors; and

(e) prescribing the manner in which payment of insurance premiums may be proved or verified.

(3) No regulation made under subsection (1) shall have effect until such regulation has been approved by Parliament. Notification of such approval shall be published in the Gazette; and, upon such publication, the regulation to which the notification relates shall be as valid and effectual as if it were herein enacted.

Interpretation. **28.** In this Ordinance, unless the context otherwise requires

" board " means the board of management constituted under section 3; " contributor " means a contributor to the fund;

[23,38 of 1971] " financial year" means the period of twelve months commencing on the first day of January of each year;

"fund" means the Public Service Provident Fund established by this Ordinance;

" personal allowance" means a special addition to salary granted personally to the holder for the time being of a post or office ;

" prescribed " means prescribed by this Ordinance or by any regulation made thereunder;
[12, Law 37 of 1975] " salary " means the consolidated salary [and includes any wages and any personal allowance but no other payment or allowance whatsoever.