

# WIDOWERS AND ORPHANS PENSION ACT (NO. 24 OF 1983)

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# Widowers and Orphans Pension Act

(No. 24 of 1983)

## AN ACT TO PROVIDE FOR THE PAYMENT OF PENSIONS TO WIDOWERS AND ORPHANS OF FEMALE PUBLIC OFFICERS.

Short title and date of operation

1. This Act may be cited as the Widowers and Orphans Pension Act, No. 24 of 1983, and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereafter in this Act referred to as the "appointed date").

Establishment of the pension scheme for the widowers and orphans of female public officers and the Director of Pensions to be in charge of the administration of the scheme

2. (1) There shall be a pension scheme (hereinafter referred to as the pension scheme) for the payment of pension to widowers and orphans of female public officers who are entitled to the payment of pension under the Minutes of pension.

(2) The Director of Pensions shall be in charge of the administration, of the pension scheme.

Deduction from salaries

3(1) From and after the appointed date, a monthly deduction at such percentage as may be determined from time to time by the Minister shall be made from the full salary of every contributor notwithstanding that she may receive in that month as salary an amount less than the full salary or may not receive as salary any amount whatsoever.

(2) The deduction referred to in subsection (1) shall be made by the Deputy secretary to the treasury and credited by him to the consolidated fund.

(3) Where the deduction referred to in subsection (1) not made from the salary of a contributor such contributor shall pay the Deputy Secretary to the Treasury, within thirty days after the receipt by her of her salary, such sum as is required to be deducted from her salary for each month under subsection (1) or where a contributor is on leave without salary, she shall pay before the thirtieth day, of each and every month during the continuance of such leave, to the Deputy Secretary to the Treasury a sum equal to the sum that would have been deducted from her salary each month under subsection (1) had she not been on leave.

(4) Every sum payable by a contributor to the Deputy Secretary to the Treasury under subsection (3) shall be a debt due from her to the State and shall, anything in any other law, be recoverable with compound interest thereon at four per centum per annum.

(5) The Deputy Secretary to the Treasury shall deduct from any moneys payable to a contributor by the State, any such debt due from such contributor to the State as is referred to in subsection (4).

(6)

(a) An officer holding office on the appointed date may, before such date as may be appointed, for the purposes of this subsection, by the Minister, from time to time, by Notice published in the Gazette, elect to be a contributor to the Pension Scheme. Where any such officer has died prior to the coming into force of this subsection or dies before the date appointed for the purposes of this subsection without making an election as aforesaid, she shall, if she leaves a husband or child or a husband and child or a husband and children, be deemed to have elected to be a contributor to the Pension Scheme ;

(b) any person who elects to become a contributor under this subsection or in the case of a person who is deemed to have elected to become a contributor to the Pension Scheme under this subsection, the person administering the estate of such deceased person, shall pay to the Pension Scheme in such instalments as may be determined by the Minister by notice published in the Gazette, all arrears of contributions for the period commencing from the appointed date until the date of election, retirement or death, as the case may be, with compound interest thereon at the rate of four per centum per annum ;

(c) Where a contributor or the person administering the estate of a deceased contributor is unable to pay the arrears of contribution, such arrears shall be recovered from the pension payable to the Widower or Orphans of such contributor, in such instalments as may be determined by the Director.

*[as amended by Act No. 19 of 1985; Act No. 16 of 1997; Act No. 2 of 2001]*

Period for which deduction shall be made

4. The deduction referred to in section 3 shall continue to be made from the salary of a contributor so long as she is in the public service and shall cease on the date on which she leaves the public service.

Contributor to furnish particulars within three months of the date of her becoming a contributor

5. Every contributor shall, within three months of the date of her becoming a contributor, forward to the Director a declaration setting out the date of her becoming a contributor, her name in full and the date of her birth and if she is married, the date of her marriage, the full name of her husband and if she has a child or children; their names in full and the dates of their respective births.

Death or divorce of husband, death of child, marriage of female child to be notified

6. Every contributor whose husband dies or who divorce her husband or whose child dies or whose female child gets married and the guardian of every such child who dies or of every such female child who gets married, shall within three months thereof, notify the Director the date of such , divorce or marriage as the case may be.

Contributor to notify birth or adoption of child

7. Every contributor shall notify the Director the date of birth of each child born to her or legally adopted by her after the date of the declaration forwarded by her under section 5, Within three months of such birth or adoption, as case may be.

Contributor to make supplementary declaration with proof of matters stated therein

8. If the Director finds that any information furnished or notified by any contributor or guardian under section 5 or section 6 or section 7 is incorrect or incomplete, he may by written notice, require such contributor ,or guardian to make a further declaration giving the correct or complete information with adequate proof of all the particulars contained in such declaration or notification within the time specified in such notice and it shall be the duty of such contributor or guardian to comply with

Who shall be entitled to the pension	<p>the requirements of every such notice.</p> <p>9. The widowers and orphans of officers who were subject to deductions under this Act shall, subject to the other provisions of this Act, be entitled to a pension under this Act.</p>
Contributor deemed to be a widow on divorce	<p>10. Where the marriage of a contributor is dissolved by a divorce, she shall, for the purposes of this Act, be deemed to be, a widow.</p>
Contributor dying within one year of marriage	<p>11. Where a contributor dies within one year from the date of her marriage, her widower shall not be entitled to a pension under this Act Unless there is a lawful child of such marriage: Provided that it shall be lawful for the Director with the consent of the Secretary to the Ministry of the Minister in charge of the subject of Public Administration to award a pension to such widower if it appears to him that such award is just and reasonable in all the circumstances of the case.</p>
When pension to orphans shall cease	<p>12. The pension payable under this Act to an orphan shall, in the case of a male, cease on his attaining the age of twenty-one years and in the case of a female cease on her marriage or on her attaining the age of twenty-one years, whichever occurs earlier. Provided however, that a male orphan or an unmarried female orphan, of the age of twenty-one years or more shall, so long he or she is unemployed, be entitled to the allowance or pension until he or she attains the age of twenty-six years. [<i>as amended by Act No. 65 of 1998</i>]</p>
Life time pension to orphans permanently incapacitated	<p>13. Where a medical board comprising three medical officers appointed by the Director of Health Services determines that an orphan "of a contributor suffers from such physical or mental disability as renders him incapable of earning his livelihood such orphan shall, notwithstanding anything in this Act, be entitled to a pension under this Act during his life time.</p>
Computation of pension	<p>14.</p> <p>14. (1) Where a contributor dies on or after the appointed date, the pension payable under this Act to her widower or orphan shall be determined in accordance with the following provisions :</p> <p>(a) where such contributor dies while in the public service or having retired from the public service before reaching the age of compulsory retirement or after having been retired from the public service of any Council other than on the grounds set out- in the Establishments Code, the amount of such pension shall -</p> <p>(i) if the period of her pensionable service at the- time of her death or retirement, as the case may be, is less than twenty-five years, be an amount equal to the pension payable under the Minutes on Pensions either for a period of twenty-five years' pensionable service or for a period of pensionable service which she, if she had not died or retired, would have completed upon reaching the age of compulsory retirement, whichever is the shorter,</p> <p>(ii) if the period of her pensionable service at the time of her death or retirement, as the case may be, is not less than twenty-five years, be an amount equal to the pension payable under the Minutes on Pensions for that period of pensionable service;</p> <p>(b) where such officer dies after having retired or having been retired from the public service on the ground of having reached the age of compulsory</p>

retirement;; or on any ground set out in this Establishments Code, such pension shall be an amount equal to the pension payable under the Minutes on Pensions for her period of pensionable service;

(c) where such officer after having been appointed " permanently to a statutory body with the approval of Government dies while in the service of such statutory body or in any other statutory body to which she had been subsequently, transferred or dies after having retired or having been retired in pensionable circumstances from the statutory body to which she had been permanently appointed from Government service or from any other statutory body to which she had been subsequently transferred, the amount of such pension shall be an amount equal to the pension payable under the Minutes on Pensions for the period of pensionable service.

(2) In this section -

Special provisions  
relating to  
pensionable service

15. (1) Where any officer who is a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance becomes a contributor under this Act on or after the appointed date, notwithstanding anything to the contrary in the Public Service Provident Fund Ordinance, there shall be deducted from the moneys payable to such officer under that Ordinance, an amount equal to four per centum of the aggregate of the salary of such officer for the whole of the period she contributed to that Fund under section 4 of the Public Service Provident Fund Ordinance. The amount deducted shall be paid into the Consolidated Fund and the period in respect of which such amount is deducted shall, for the purposes of subsection (2) of this section, be regarded as a period in respect of which contributions have been made under this Act by such officer.

(2) Where the pension payable in respect of a contributor under this Act is under section 14, calculated on the basis of the pension payable to such officer under, the Minutes on Pensions and the pensionable service of such person includes any service in respect of which contributions under this Act have not been made, the Director may, with the consent of such contributor, cause to be deducted from any moneys due to or in respect of such contributor from the State, an amount equal to four per centum of the aggregate salary of such contributor together with interest at four per centum per annum on such amount for the whole of the period in respect of which contributions under this Act have not been made:

(3) Where it is impracticable to make a deduction under subsection (2) for the entirety or a part of the pensionable service in respect of which contributions have not been made by a contributor such contributor or where he is not alive, the widower or orphan of such contributor entitled to a pension under this Act in respect of such contributor may, if he so desires, pay to the Director a sum equal to the amount which was deductible in terms of subsection (2). If such payment is not made, the pension payable under this Act in respect of such contributor shall, in respect of each complete month for which the payment is not made, be reduced by

1/600th of such pension.

(4) In this section "pensionable service" has the same meaning as in section 14.

Pension payable to be a charge on the consolidated Fund

16. All pensions payable under this Act and all amounts to be refunded and all interest to be paid under this Act to any contributor, or, her legal representatives or heirs shall be paid out of the Consolidated Fund and are hereby made a charge on such Consolidated Fund.

Pension to orphans

17(1) Where a contributor being a widow and unmarried dies leaving a child or, children entitled to a pension under this Act or when a widower of a contributor dies leaving a child or children entitled to pension under this Act, being a child or children of his marriage with such contributor, the pension of such child or children shall be the amount which the widower would have received or had been receiving, equally divided among the children.'

(2) A child adopted under the provisions of the Adoption of Children Ordinance or any other law relating to the adoption of children by a married contributor while she is a contributor shall, subject to the provisions of subsection (3), be treated as a child of such contributor and accordingly, such child shall be entitled to a pension under this Act in like manner and to the like amount as a child of such contributor.

(3) A child adopted under the provisions of the Adoption of Children Ordinance or any other law relating, to the adoption of children by a married contributor while she is a contributor shall be entitled to a pension under this Act unless the Director has reason to believe was no genuine desire, on the part, of such adopt the child and that the adoption was merely one of convenience:

Provision in case of widower marrying

18. The widower of a contributor who marries again at any time after he becomes entitled to a pension under this Act shall cease to receive a pension from the date of such marriage; and the children entitled to the pension of such widower and contributor shall thereupon be entitled to an amount which the widower would have received had he not married, again, equally divided among such children.

Provision in case of a widower and children of a previous marriage

19(1) When a contributor dies leaving widower and children being the issue of a previous marriage and such, children are of ages which entitle them to a pension under this Act each such child shall be entitled to an equal share or portion of half the pension to which their father would have been entitled if he had survived their mother. The widower of such contributor shall be entitled to one-half of the pension to which he would have been entitled had there been no such children,

(2) Where a contributor dies leaving a widower and no children, being the issue of a previous marriage or any children of a previous marriage who have ceased to be entitled to pension, then, the widower shall be entitled to the whole of such pension.

(3) Where the widower dies leaving no issue of his marriage with the contributor the children entitled to pension of the first marriage of the contributor shall be entitled to such pension as if the contributor had not contracted such subsequent

marriage.

(4) Where the widower dies leaving children the issue of his marriage with the contributor such children shall be entitled to an equal share or portion of the pension to which their father was entitled.

Pension to be paid  
monthly

20(1) The pension payable in respect of a tinder this Act shall begin upon the death of the or her widower, as the case may be, and shall and shall be paid monthly. It shall be law to require proof that any widower or child is alive and entitled to the pension, claimed by such widower or child before any such payment is made.

(2) Notwithstanding the provisions of subsection (1) a Pension payable under this Act shall be payable to the Widower up to the end of the month in which such widower dies.

Payment of pension  
due to a widower

21. A pension payable under this Act to a widower may be paid by the Director to a fit and proper person on behalf of the widower. Where the pension is so paid, the person receiving the pension shall apply it in accordance with such terms and conditions as may be determined by the Director for the maintenance, support, or benefit of the widower and his child or children, if any, who would be entitled on his death to receive a pension under this Act.

Failure to maintain  
child

22. Where the Director is satisfied that a widower, is in receipt of a pension under this Act has deserved or abandoned, or is failing to maintain or assist, so far as his means allow, a child who; would be entitled on his death to receive pension under this Act, the Director having regard to the circumstance of the case pay to child, or to a fit and proper person on behalf of such child, such portion of the widower's pension as he thinks fit, having regard to the needs of such child ; and the widower shall have no further claim in respect of any portion of his pension so paid. Any, portion of a widower's pension paid under this section to any person on behalf of a child of the widower shall be applied by that person in accordance with such terms and conditions as may be determined by the Director, for the maintenance, support or benefit of such child.

Payment of pension  
due to a minor

23.(1) A pension payable under this Act to a minor may be paid by the Director either directly to the minor or to such holder of a designated office or such other person as may be appointed by the Director in writing to receive the pension on behalf of the minor. Where the pension is paid to any person so appointed, he shall apply the pension for the maintenance, support or benefit of the minor in accordance with such terms and conditions as, may be determined by the Director.

(2) In determining under section 21 or section; 22 or this section, any terms and conditions for the maintenance, support or benefit of a widower or any child, the Director shall have regard to the welfare and needs of such widower or such child.

Pension not to foe  
assigned or levied  
upon

24. No pension payable under this Act shall be assigned or transferred, and accordingly every assignment or transfer made in contravention of this section shall be null and void. No such pension shall be attacked or levied upon or arrested or taken in execution on account of any debt or payment due by the person to whom such pension is payable.

Widower not entitled  
to pension if

25. No widower of contributor whose marriage was contracted after she had ceased

marriage contracted  
after contributor  
ceased to contribute

to contribute, and no child, of such marriage, shall be entitled to any pension under this Act.

Contribution in  
respect of  
pensionable service

26(1) Notwithstanding anything in this Act an officer who has elected to contribute to the scheme and who has reckonable pensionable service under the Minutes on Pensions prior to the date she became a contributor may, at her option, make a contribution at four per centum of her salary in respect of such reckonable service together with four per centum interest.

(2) The contribution and interest referred to in subsection (1) may be paid by the officer

(a) in one lumpsum at any time during the period the officer is in public service;  
or

(b) from the commuted pension, payable to her on retirement under the Minutes on Pensions; or

(c) in monthly instalments from her monthly pension either at the monthly rate at which contribution was recovered from her salary on the month in which she retired from public service or at such higher rate as may be agreed upon by the officer and the Director;

(3) Where any officer makes payment of the contribution and interest referred to in subsection (1) in the manner provided in paragraph (c) of subsection (2), she may at any time, before the completion of the, payment of the balance contribution and interest, notify the Director that she intends to discontinue such payment from her pension and the Director shall cease to cover such balance contribution from the date of receipt of such, notification.

(4) Where an officer has not paid the contributions and interest referred to in subsection (1) or where she has paid only a part thereof, the widower of such contributor may make .payment of the entirety of such contributions and interest or, any outstanding balance thereof, as the case may be, in such manner as the Director may determine, having regard to the financial resources of such Widower.

Refund of  
contribution to  
spinster

27(1) where a contributor who is a spinster retires from, or otherwise leaves the public service unmarried the contributions made by such contributor under this Act shall be refunded to her with compound interest at two and a half per centum per annum.

(2) Where a contributor who is a spinster dies while in the public service, the contributions made by her under this Act shall be paid to her legal

representatives.

Refund of contributions to widows without pensionable children

28. Where a contributor, who is a widow without pensionable children, retires from the public, service on pension or where a contributor who is a widow without pensionable children, leaves the public service by resignation, or otherwise or where a contributor who is a widow without pensionable children, dies whilst in the public service such contributor or legal representative of such contributor, as the case may be, shall be entitled to a refund of the entirety of her repayable contributions with compound interest thereon at two and a half per centum.

[As amended by Act No. 56 of 1998]

28A (1) Notwithstanding anything to the contrary in this Act, where on or after the coming into operation of this section, a contributor who is a widow without children"

(a) retires from the public services on pension ; or

(b) leaves the public service by resignation or otherwise ; or

(c) dies whilst in the public service,

(2) Any contributor who receives a refund under this section shall have no further claim upon the fund.

(3) Notwithstanding any thing to the contrary in this act any contributor referred to in subsection (1) who has prior to the date on which this section comes into operation received a refund of any contribution may claim the benefit of this section only if she pays back the amount of such refund within one year from the said date together with compound interest thereon at two and a half per centum per annum.

Refund of contribution to contributor leaving public service without pension

29. Where a married contributor leaves the public service she shall, if she is not eligible for a pension under the Minutes on Pensions, be entitled to a refund of the entirety of her contributions under this Act without interest and upon the refund of such contributions such contributor or any person claiming through or under her shall cease to be entitled to any benefits under this Act.

Exemption from estate duty

30. No pension to which a widower or orphan of a deceased contributor becomes entitled under this Act, shall be liable to the payment of estate duty under Estate Duty Act, No. 13 of 1980.

Certain questions to be decided by the Secretary to the Ministry of the Minister

31. Where any question arises as to whether any person is a contributor within the meaning of this Act or as to whether any person is entitled to a pension under this Act as a widower or as an orphan of a contributor or as to the amount of pension to which a widower or orphan is entitled to under this Act, such question shall be decided by the Secretary to the Ministry of the Minister.

Interpretation

32. In this Act, unless the context otherwise requires " contributor " means a person who

(a) being an officer on the appointed date elects, under section 3.

(b) to, be a contributor to the pension r scheme, or (b) becomes an officer after the appointed date;

"director" means Director, of Pension; "officer' means a female holding a permanent office the public service of Sri Lanka being an office in respect of which she is entitled to the payment of pension under; the Minutes on Pensions; " repayable contributions " in relation to a pensionable children, means the contributions she has made under this Act since the date on which her husband died or the date on which her child or the longest of her children ceased to be pensionable whichever is the later date. " salary" means, the remuneration paid to an officer in respect of any permanent office held by her in the service of the Government of Sri Lanka in respect of which she is entitled to a pension under the Minutes on Pensions and includes any pensionable allowances paid to her in respect of such office but does not include any fees paid to such officer.