

Widows' And Orphans' Pension Fund (Amendment) Act (No. 44 of 1981)

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WIDOWS' AND ORPHANS' PENSION FUND (AMENDMENT) ACT

(NO. 44 OF 1981)

AN ACT TO AMEND THE WIDOWS' AND ORPHANS' PENSION FUND ORDINANCE.

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| Short title | 1 This Act may be cited as the Widows' and Orphans' Pension Fund (Amendment) Act. |
| Amendment of section 2 of Chapter 431 | 2. Section 2 of the Widows' and Orphans' Pension Fund Ordinance, (hereinafter referred to as the principal enactment) is hereby amended as follows :
(1) by the omission of the definition of " directors "; |

(2) by the substitution, for the definition of " maximum period of contribution ", of the following definition :

(3) by the insertion, immediately before the definition of " repayable contributions ", of the following new definition:

(4) by the substitution, for the definition of " salary ", of the following definition:

Replacement of section 5 of the principal enactment

3. Section 5 of the principal enactment is hereby repealed and the following section substituted therefor:

5.

(1) The Director of Pensions (hereafter in this Ordinance referred to as the " Director ") shall be in charge of the general administration of this Ordinance.

(2) The Director may generally or specially authorize any officer to exercise, perform or discharge any power, function or duty conferred or imposed on him by this Ordinance.

(3) The Director shall cause to be prepared on or before the thirty-first day of May in each year a true account of all the moneys received and paid by virtue of this Ordinance, during the period of twelve months ending on the thirty-first day of December immediately preceding in respect of public officers appointed on or before the 14th day of March, 1906.

(4) The account prepared under subsection (3) shall be audited by the Auditor-General, and such account shall be laid before Parliament.'

Amendment of section 6 of the principal enactment

4. Section 6 of the principal enactment is hereby amended by the repeal of the proviso to that section.

Amendment of section 8 of the principal enactment

5. Section 8 of the principal enactment is hereby amended as follows :

(1) by the repeal of subsection (1) of that section and the substitution therefor, of the following subsection :

" (1)

(a) From and after the commencement of this Ordinance up to March 31, 1975, a monthly abatement of four per centum shall be made from the full salary or pension, as the case may be, of every public officer, notwithstanding that for any month he may receive as salary or pension an amount less than the full salary or pension or may not receive as salary or pension any amount whatsoever.

(b) From and after April 1,1975. a monthly abatement at such percentage as may be determined, from time to time, by the Minister shall be made from the

consolidated salary of every public officer notwithstanding that for any month he may receive as salary an amount less than his full salary or may not receive as salary any amount whatsoever.

(c) During the period commencing on April I, 1975, and ending on the relevant date, a monthly abatement equal to the amount of the abatement made in respect of the month in which any public officer retired from the public service shall be made, or where a public officer opts to contribute from his pension an abatement of four per centum of the unreduced pension shall be made from such pension. ";

(2) by the insertion, immediately after subsection (1), of the following new subsection:

"(1A). Notwithstanding anything in subsection (1) a monthly abatement referred to in that subsection shall not be made from the pension payable to a public officer in respect of any period commencing on or after the relevant date. ";

(3) by the repeal of subsection (2) of that section and the substitution therefor of the following subsection:

' (2) The abatement referred to in subsection (1) shall be made by the Deputy Secretary to the Treasury from the salaries and pensions of contributors, or, in the case of payments made by the Crown Agents by such Crown Agents upon each occasion of payment of salary or pension, and shall be placed to the credit of " The Widows' and Orphans' Pension Fund "':

(4) in subsection (3) of that section by the substitution, for all the words from 6. Section 9 of the principal enactment is hereby repealed and the following section substituted therefor:

9.

(1) Subject to the provisions of subsection (2), the abatement referred to in section 8 (1) shall continue to be made from the salary of a public officer until such officer attains the age of sixty-five years, should he continue so long in the public service, at which date it shall cease ; such abatement shall also cease after an officer has been subject to the abatement for thirty-five successive years.

(2) The abatement referred to in section 8 (1) from the salary of a public officer

(a) who on the relevant date is a contributor while in the public service; or

(b) who becomes a contributor on or after that date,

Replacement of section 9 of the principal enactment

Amendment of section I2A of

7. (1) Section I2A of the principal enactment is hereby amended in subsection (2)

the principal enactment

of that section, by the insertion, immediately after paragraph (b) of the following new paragraph:

" (bb) dies and his pension is revised after his death, or ".

(2) The provisions of subsection (1) shall be deemed to have come into effect on January 24, 1957.

Amendment section 13 the principal enactment

8. Section 13 of the principal enactment is hereby amended as follows :

(1) by the renumbering of that section as subsection (1) of section 13; and

(2) by the addition, at the end of that section, of the following new subsection;

" (2) Nothing in subsection (1) shall apply to any person who on or after the relevant date becomes a contributor under this Ordinance."

Amendment of section 15 of the principal enactment

9. Section 15 of the principal enactment is hereby amended as follows :

(1) by the renumbering of that section as subsection (1) of section 15; and

(2) by the addition, at the end of that section, of the following new subsection:

" (2) Nothing in subsection (1) shall apply to any person who on or after the relevant date becomes a contributor under this Ordinance. ".

Replacement of section 23 of the principal enactment

10. Section 23 of the principal enactment is hereby repealed and the following section substituted therefore:

23. Every public officer shall notify to the Director the date of birth of each child born to him or legally adopted by him after the passing of this Ordinance within three months of such birth or adoption, as the case may be. ".

Insertion of new section 29A in the principal enactment

11. The following new section is hereby inserted immediately after section 29, and shall have effect as section 29A, of the principal enactment:

29A. Where a Medical Board comprising three medical officers appointed by the Director of Health Services determines that an orphan suffers from such physical or mental disability as renders him incapable of earning his livelihood, such orphan shall, irrespective of age, be entitled to a pension under this Ordinance during his life time. ".

Replacement of section 30 of the principal enactment

12. Section 30 of the principal enactment is hereby repealed and the following section substituted therefor:-

30. Subject to the provisions of section 57A, the pension or allowance to which a widow or a child of a deceased public officer is entitled shall be computed according to tables to be approved by the Minister. Such tables shall be adjusted and revised by an actuary or actuaries who shall be from time to time appointed by the Minister. All pensions payable under this section to widows or children, whether in possession or in expectation and revision, shall be subject to readjustment, and shall be computed upon the tables so adjusted and revised, and diminished or increased accordingly. ".

Replacement of section 32 of the principal enactment

13. Section 32 of the principal enactment is hereby repealed and the following section substituted therefor:

32. Such percentages as the Minister may, on the recommendation of the Director, from time to time, appoint of such surpluses as may be disclosed by the periodical actuarial valuations provided for by section 31 of this Ordinance of the assets and liabilities of the fund, including the valuation of such assets and liabilities as on the 31st day of March, 1909. shall be applied in increasing the prospective pensions of the widows and orphans of the contributors to the fund at the date of each such valuation, and of former contributors who had ceased to contribute on attaining the age of sixty-five years or on leaving the service, and of all those who may be pensioners at the date of each such valuation, in such shares and proportions and in such manner as the Minister with the concurrence of the Minister in charge of the subject of Finance may direct. "

Amendment of section 33 of the principal enactment

14. Section 33 of the principal enactment is hereby amended as follows :

(a) by the renumbering of that section as subsection (1) of section 33 ;

(b) by the addition, at the end of that subsection, of the following new subsections:

" (2) A child adopted under the [Cap. 76] provisions of the Adoption of Children Ordinance or any other law relating to the adoption of children by a married public officer while he is a contributor shall, subject to the provisions of subsection (3) and subsection (4), be treated as a child of the adopter and accordingly such child shall be entitled to a pension under this Ordinance in like manner and to the like amount as a child of such public officer.

(3) A child adopted under the [Cap. 76] provisions of the Adoption of Children Ordinance or any other law relating to the adoption of children by a married public officer while he is a contributor shall be entitled to a pension under this Ordinance unless the Director has reason to believe that there was no genuine desire to adopt the child and that the adoption was merely one of convenience :

(c) by the substitution, for the marginal note to that section, of the following new marginal note :

Amendment of section 37 of the principal enactment

15. Section 37 of the principal enactment is hereby amended as follows :

(1) by the renumbering of that section as subsection (1) of section 37 ; and

(2) by the addition, at the end of that section, of the following new subsection:

" (2) Notwithstanding the provisions of subsection (1), from and after August 1, 1976, a pension payable under this Ordinance shall be payable to the widow up to the end of the month in which such widow dies."

Amendment of section 48 of the principal enactment

16. Section 48 of the principal enactment is hereby amended by the repeal of subsection 3 of that section and the substitution therefor of the following subsection :

" (3) Where, on or after the appointed date but before the relevant date, a bachelor

Amendment of
section 51 of the
principal
enactment

ceases to make contributions under this Ordinance while in the public service owing to the expiry of his maximum period of contribution, he shall be granted the refund of the entirety of his contributions under this Ordinance with compound interest thereon at two and a half per centum per annum."

17. Section 51 of the principal enactment is hereby amended as follows :

(1) by the repeal of subsections (1) and (2) of that section and the substitution therefor of the following subsections:

" (1) Where a widower without pensionable children, by reason of his failure to exercise his right under section 49, does not cease to make contributions under this Ordinance, then

(a) if he at any time after the appointed date but before the relevant date dies or elects to cease to make such contributions, or

(b) if he continues to make such contributions and ceases so to do by reason of the expiration of his maximum period of contribution, or by reason of his death,

(2) Where, on or after the appointed date, a person who is making contributions under this Ordinance

(a) retires from or otherwise leaves the public service while a widower without pensionable children, or

(b) becomes such a widower after retiring from or otherwise leaving such service, then-

(2) by the insertion, immediately after subsection (2), of the following new subsections :

" (2A) Where, on or after the relevant date, a public officer who has been a contributor prior to that date

(a) retires from or otherwise leaves the public service while a widower, without pensionable children, or

(b) becomes such a widower after retiring from or otherwise leaving such service, or

(c) dies while in the public service and while a widower without pensionable children,

(2B) Where a public officer becomes a contributor on or after the relevant date, and

(a) retires from or otherwise leaves the public service while a widower without pensionable children, or

(b) dies while in the public service and while a widower without pensionable children,

(3) by the repeal of subsection (4) of that section and the substitution therefor of the following subsection :

" (4) Where, on or after the appointed date but before the relevant date, a widower without pensionable children ceases to make contributions under this Ordinance while in the public service owing to the expiry of his maximum period of contribution, he shall be granted a refund of the entirety of his repayable contributions with compound interest thereon at two and a half per centum per annum."; and

(4) by the repeal of subsection (7) of that section and the substitution therefor of the following subsection :

" (7) Where, on or after the appointed date but before the relevant date a widower without pensionable children dies while in the public service and while making contributions under this Ordinance, the entirety of his repayable contributions shall be paid to his legal representative, or heir, or heirs with compound interest thereon at two and a half per centum per annum. ".

Insertion of new section 51A in the principal enactment

18. The following new section is hereby inserted immediately after section 51, and shall have effect as section 51A, of the principal enactment:

51A.

(1) Where any public officer

(a) who becomes a contributor on or after the relevant date, and

(b) who is not a bachelor, leaves the public service he shall, if he is not eligible for a pension under the Minutes on Pensions, be granted a refund of the entirety of his contributions under this Ordinance without interest and such person shall not be entitled to any further benefit under this Ordinance and all persons claiming through or under him shall cease to be entitled to the benefits under this Ordinance.

(2) Where a person dies before receiving a refund to which he has become entitled under the provisions of subsection (1), the amount of that refund shall be paid to his legal representative or heir or heirs. ".

Amendment of section 57 of the principal enactment

19. Section 57 of the principal enactment is hereby amended as follows :

(1) in subsection (1) of that section, by the substitution, for all the words and figures from " The pensions to which widows ", to " the 3rd day of August, 1945 : ", of the following :

(2) by the repeal of subsection (3) of that section.

Insertion of new sections 57A,57B,57C, 57D,57E and 57F in the principal

20. The following new sections are hereby inserted immediately after section 57, and shall have effect respectively as section 57A, section 57B, section 57C, section 57D, section 57E and section 57F, of the principal enactment:

57A.

enactment

- (1) The succeeding provisions of this section shall not apply to the pension payable in respect of any person who, after leaving the public service, has continued to contribute under section 13 or section 15 of this Ordinance.

- (2) Where a person who is or was a contributor dies on or after the relevant date, the pension payable under this Ordinance in respect of such person shall, anything in this Ordinance to the contrary notwithstanding, be determined in accordance with the following provisions:
 - (a) Where such person 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 on any ground other than on the grounds set out in the Establishments Code, then, subject to the provisions of paragraph (c), the amount of such pension shall

 - (b) Where such person dies after having retired or having been retired from the public service on the ground of having reached the age of compulsory retirement or on any ground set out in the Establishments Code, then subject to the provisions of paragraph (c), such pension shall be an amount equal to the pension payable under the Minutes on Pensions for his period of pensionable service.

 - (c) Where such person had retired or had been retired from the public service prior to the relevant date, such pension shall be either the amount payable under the preceding provisions of this section or the amount which but for those provisions would have been payable under this Ordinance, whichever is the greater.

 - (d) Where such person after having been appointed permanently to a statutory body with the approval of the Government dies while in the service of such statutory body or in any other statutory body to which he had been subsequently transferred or dies after having retired or having been retired in pensionable circumstances from the statutory body to which he had been appointed from Government service or from any other statutory body to which he had been subsequently transferred, subject to the provisions of paragraph (c), the amount of such pension shall

- (3) In this section

57B.

- (1) Where any person who is a contributor to the Public Service Provident Fund established under the Public Service Provident Fund Ordinance becomes a contributor under this Ordinance on or after the relevant date, the Director shall, notwithstanding anything to the contrary in the Public Service Provident Fund Ordinance, deduct from the moneys payable to such person under that Ordinance an amount equal to four per centum of the aggregate of the salary of such

contributor for the whole of the period he contributed to the Fund under section 4 of the [Cap.621] Public Service Provident Fund Ordinance. The amount as deducted shall be paid into the Consolidated Fund of Sri Lanka 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 Ordinance by such person.

(2) Where the pension under this Ordinance in respect of any person is under section 57A, calculated on the basis of the pension payable to such person under the Minutes on Pensions and the pensionable service of such person includes any service in respect of which contributions under this Ordinance have not been made, the Director may, with the consent of such person, deduct from any moneys due to or in respect of such person from the State, an amount equal to four per centum of the aggregate salary of such persons 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 Ordinance have not been made.

(3) Where the Director is unable to make any deduction under subsection (2) for the entirety or a part of the pensionable service in respect of which contributions have not been made by any person, such person or, where he is not alive, the person entitled to a pension under this Ordinance in respect of the first-mentioned person may, if he so desires, pay to the Director a sum equal to the amount which was not deducted in terms of subsection (2). If such payment is not made the pension payable under this Ordinance 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" shall have the same meaning as in section 57A.

57C. Where any teacher who was a contributor to the Teachers' Widows' and Orphans' Pension Fund (hereafter in this section referred to as the " pension fund "), established under the School Teachers' Pension Act, has, with effect from April 1, 1970, become a contributor under this Ordinance, the periods during which such teacher contributed to the pension fund shall, for the purposes of subsection (2) of section 57B, be regarded as periods during which such teacher had made the full contributions due under this Ordinance. The contributions made by such teacher to the pension fund, together with the contributions in respect of such teacher made by the Government to the said fund and the interest earned on such contributions, shall be transferred to the Consolidated Fund of Sri Lanka and such teacher or any person claiming through or under such teacher shall cease to be entitled to the benefits under the pension fund,

57D.

(1) Where any pensionable public officer becomes a member of the Armed Forces

and thereby becomes a contributor to the pension scheme established under the Widows' and Orphans' Pension Scheme (Armed Forces) Act the periods in respect of which he contributed to the fund under this Ordinance shall be regarded as periods for which he contributed to the pension scheme established under the aforesaid Act. and accordingly no refund shall be made to him of his contributions to the fund under this Ordinance, notwithstanding anything to the contrary in this Ordinance.

(2) Where any married public officer becomes a member of the Armed Forces such officer shall have the option to continue to contribute to the fund established under this Ordinance and such option shall be exercised within six months of his becoming a member of the Armed Forces. Where such officer opts to continue to contribute to the fund established under this Ordinance the provisions of subsection (1) shall not apply in respect of such officer.

57E. All pensions payable under this Ordinance in respect of public officers appointed after the 14th day of March, 1906, and all amounts to be refunded and all interest to be paid under this Ordinance to such officers or their legal representatives or heir or heirs shall be paid out of the Consolidated Fund of Sri Lanka and are hereby made a charge on the Consolidated Fund.

57F. All pensions under this Ordinance (other than pensions calculable under section 57A on the pensions payable under the Minutes on Pensions) to widows or orphans, whether in possession, expectation and reversion, for any period commencing on or after the relevant date shall be increased by twenty-five per centum.'

Replacement of section 58 of the principal enactment

21. Section 58 of the principal enactment is hereby repealed and the following section substituted therefore:

58. An investigation of the under this Ordinance in respect of public officers referred to in section 53 shall be made, at such times as the President may determine, by an actuary approved by the President."

Substitution of the word "Minister" and of the word "Director"

22. There shall be substituted

(a) for the word " President " wherever that word occurs in any provision of the principal enactment the word " Minister " ;

(b) for the word " directors " wherever that word occurs in any provision of the principal enactment the word " Director ", and accordingly any reference in that enactment to any powers, functions or duties exercised, discharged or performed by any one or more or all of the directors shall be read and construed as a reference to any powers, functions or duties exercised, discharged or performed by the Director.