

No. 14 of 1890.

An Ordinance relating to the giving of Security by Public Officers of the Crown in Ceylon.

WHEREAS certain public officers in the employment of the Government of Ceylon are required to enter into security to our Sovereign Lady the Queen for the due performance of the duties of their respective offices : And whereas it is expedient that a system of giving security in all such cases should be by law established : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Preamble.

1 This Ordinance shall be called "The Public Officers' Security Ordinance, 1890," and shall come into operation from such day as may be appointed by order of the Governor in Executive Council proclaimed in the *Government Gazette*.*

Short title.

Commencement.

2 (1) From and after the day this Ordinance comes into operation, every person in the employment of the Government of Ceylon, who is required to give security for the due discharge in any respect of the duties of his office, shall give security according to the provisions of this Ordinance, in one or other of the following ways as the Governor may in each case determine, and not otherwise ; namely :

Different ways in which public officers may give security.

(a) By personal bond and deposit with the Colonial Treasurer to the extent required of public securities of the United Kingdom, India, or the Colonies, duly endorsed in favour of the said Treasurer, or

By personal bond and deposit of securities or money.

* Proclaimed the 1st day of July, 1891.

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by personal bond and lodgment of moneys in the Ceylon Savings Bank, or Post Office Savings Bank, or any local bank approved by the Governor in Executive Council to such extent in the name of the said Treasurer.

By personal bond and guarantee of association of public servants.

(b) By personal bond and the guarantee of any association of public officers of the Crown in Ceylon for purposes of mutual guarantee, whereof the business is conducted according to rules from time to time approved by the Governor in Executive Council and published in the *Government Gazette*.

By personal bond and guarantee of a guarantee company duly approved by the Governor.

(c) By personal bond and the guarantee of any such public company or association accustomed as part of their regular business to guarantee the fidelity of any persons as may be approved by the Governor.

Officers who have already given only personal security required to give security under this Ordinance.

(2) Any person in the employment of the Government of Ceylon who has heretofore given security by executing a joint and several bond with one or more sureties shall, from and after the coming into operation of this Ordinance, give security in one or other of the ways hereinbefore provided, as the Governor may determine.

Form and amount of bond or other instrument.

3 All bonds and all instruments relating to security under this Ordinance shall be in such form as may be prescribed and for such amount as may be fixed by the Governor, except as to any amount which may be fixed by law. The amount of the deposit in the Ceylon Savings Bank, or Post Office Savings Bank, or any local bank approved by the Governor in Executive Council, 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.

Bonds to be attested, approved, and recorded.

4 (1) Every such bond or instrument of securityship given under this Ordinance shall be attested by any district judge, commissioner of the court of requests, or justice of the peace, or by two subscribing witnesses, and when endorsed by any Crown counsel as being in due form shall be recorded in the office of the Colonial Treasurer, and shall then be delivered to the Auditor-General for safe keeping.

Free of stamp duty.

(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 an attested copy of such record, shall be sufficient *primâ facie* evidence of its execution without proof by the officer or witnesses attesting the same.

Evidence thereof.

Receipt for deposit.

5 The Treasurer shall give to any officer who deposits securities or lodges money in the Ceylon Savings Bank, or the Post Office Savings Bank, or any local bank approved by the Governor in Executive Council under section 2 of this Ordinance, a receipt for the same in such form as may be prescribed by the Governor. The depositor shall, unless and until the condition of his bond is broken, be entitled to receive from the Treasurer the interest on the securities or

Interest.

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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 Treasurer, on obtaining the certificate of the Colonial Secretary under section 10 of this Ordinance, the securities or money so deposited by him. 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 Governor 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 Ceylon or his residence is not known, may be applied by the order of the Governor 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 Ceylon and his residence were known. 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 Colonial Secretary under section 10 of this Ordinance.

Principal of deposit when refunded.

6 When there shall have been a breach of the condition of any bond given under this Ordinance, and any mutual guarantee association, or public company, or other association which has given security under this Ordinance, shall have paid the whole amount of such bond or such lesser amount as the Crown may claim from such mutual guarantee association, public company, or other association, such mutual guarantee association, or public company, or other association 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. Provided that they shall not recover in any such action an amount larger than the sum they have actually paid as sureties. Such assignment shall be made by the Colonial Secretary by indorsement 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. In any action or suit on any bond assigned under this section, judicial notice shall be taken of the signature of the Colonial Secretary.

On breach of bond and payment by guarantees, bond may be assigned to them.

Proviso limiting amount to be recovered.

How bond to be assigned.

Evidence thereof.

7 No promised guarantee of any public company 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 company or association shall have been actually executed and recorded in the office of the Colonial Treasurer.

Promised guarantee not to entitle person to privileges of office.

And if any public officer required to give security under this Ordinance shall improperly neglect for three months or for such shorter time as may be fixed by the Governor, to give such security, his office shall be deemed vacated and a fresh appointment may be made thereto.

Office vacated if security not given within three months, or within any shorter period fixed by the Governor.

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Security under this Ordinance sufficient in all cases.

8 Security given under this 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 the duties of his office, 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 Governor.

9 After the passing of this Ordinance it shall be lawful for the Governor, 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, &c., may be given and deposits returned on certificate of Colonial Secretary.

10 (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 Colonial Secretary 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 Ceylon Savings Bank, or Post Office Savings Bank, or any local bank approved by the Governor in Executive Council, made by him under this Ordinance.

(2) The Colonial Secretary shall not give such certificate unless and until he shall be satisfied by the due auditing of the accounts of such public officer, or by due inquiry otherwise, as the Governor 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 Crown has a claim which may be satisfied by a portion only of the deposit, the Colonial Secretary 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 deposit.

12th November, 1890.
