

*Widows' Pension Fund.***No. 20 of 1885.***(As amended by No. 1 of 1890.)*

An Ordinance to consolidate and amend the Law providing for the granting of Pensions to Widows and Children of deceased Public Officers of this Colony.

Preamble.

WHEREAS it is expedient to consolidate and amend the law providing for the granting of pensions to the widows and children of deceased public officers of this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Widows' and Orphans' Pension Fund Ordinance, 1885."

Interpretation
clause:
"Public officer."

2 A "public officer" means, for the purposes of this Ordinance, an officer who is in the receipt from the Colonial Treasury of a salary of not less than two hundred and fifty rupees per annum: Provided that the provisions of this Ordinance shall not apply to any public officer who is by any law entitled to have more than one wife at any one time, nor to the widow and children of any such officer.

Not to extend to
Mohammedans.

[§ 2, 1 of 1890]

2 (1) The definition of "public officer" shall be taken and construed to include officers borne on the provisional establishment of this colony, provided that they otherwise are within the terms of such definition.

"Pension."
[§ 3, 1 of 1890]

(2) The term "pension," whenever used in the sense of a pension on retiring from the public service, shall be taken and read as including "compassionate allowance" and "superannuation allowance."

Fund how
constituted.

3 The fund already formed and now in existence under the provisions of Ordinance No. 15 of 1884, and the fund to be created under the provisions of this Ordinance, for providing pensions for widows and children of public officers of this colony, shall be consolidated together and called "The Widows' and Orphans' Fund."

Investment of
fund.

4 All moneys belonging to the said fund, whether arising from past or future contributions, fines, interest, or otherwise, shall be invested with the Government of this colony, and shall bear interest payable by the said Government for ten years from the date* at which the said Ordinance No. 15 of 1884 came into operation, at the rate of six per cent. per annum free from any deduction, and such interest shall be made up on the thirty-first day of December in each year, and shall be calculated upon the mean monthly balance standing in the hands of the Treasurer to the credit of such fund during the course of the year.

Abatements
from salaries.

5 From and after the date on which this Ordinance shall come into operation, an abatement of four per cent. shall be made from the salary of every public officer whose appointment† shall be subsequent to the passing of this Ordinance, and whose salary shall at any time amount to or exceed the

* 31st March, 1884.

† See definition of "appointment" at page 404.

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rate of two hundred and fifty rupees per annum; and a like abatement of four per cent. shall continue to be made as heretofore from the salary of every public officer who has hitherto been subject to such abatement under the provisions of sections 4 and 5 of Ordinance No. 15 of 1884.

6 It shall be lawful for the directors of the fund, on or before the thirtieth June, 1886, to admit any public officer who shall have been appointed prior to the passing of Ordinance No. 15 of 1884 on an annual salary of two hundred and fifty rupees or more, and who at the date of the passing of this Ordinance shall still hold such appointment, to contribute towards the fund: Provided, however, that the admission of such officer shall be contingent on his forthwith, or by such instalments as the directors may determine, paying a sum equal to an abatement of four per cent. from his salary for the entire period during which he would have been subject to such abatement had he been originally admitted to contribute under the provisions of Ordinance No. 15 of 1884, together with interest, at the rate of six per cent. per annum, on such sum; and every such officer who may be so admitted to contribute shall be entitled to the same privileges, and shall be subject to the same conditions, in respect of the fund, as any public officer with regard to whom an abatement is made compulsory by this Ordinance.

7 The abatement of four per cent. from the salary of a public officer shall continue to be made 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 this fund for thirty-five successive years.

8 A public officer who has attained the age when he shall have acquired the right to retire from the public service, or who may be allowed to retire from the public service on account of ill-health before he attains the age at which he would otherwise be entitled to retire, or who may be deprived of the situation in respect of which he contributed to the fund, but who is entitled to retire on a pension, should he decide on retiring on a pension, shall not be called upon to make any further contribution to the fund beyond a monthly abatement from his pension of four per cent. on such pension, to commence from the date of his retirement, until he attains sixty-five years of age, or has been subject to abatement for thirty-five years, when such abatement shall cease.

9 A public officer who may retire from the public service, or who may be deprived of the situation in respect of which he contributed to the fund, but who shall not be granted a pension or compassionate or superannuation allowance, may continue to contribute to the fund from and after the date of his so retiring or being deprived of his situation, on the salary he was receiving at such date and at the same rate and subject to the same terms and conditions as if he had continued in the public service. In the event of his failing so to continue to contribute, or in the event of any contribution due from him being six months in arrears, it shall be considered that he has ceased to contribute to the fund, and his

Contributions to fund by officers appointed prior to passing of Ordinance No. 15 of 1884.

Period for which abatement shall be made.

Abatement payable by officer retired on a pension for service.

Officer retiring and ceasing to contribute.

[§ 5, 1 of 1890]

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widow or widow and children, as the case may be, shall be entitled on his death only to a pension computed on the basis of the interest acquired by such contributor in the fund at the date of his so retiring or being deprived of his situation, in accordance with the tables hereinafter referred to.

Provision for case of officers transferred to other employment under the Crown.

10 A public officer who has been transferred prior to the passing of this Ordinance, or who may hereafter be transferred from the service of the Government to other employment under the Crown, shall cease to contribute to the fund from and after the date of such transfer, but his widow or children, as the case may be, shall be entitled on his death to a pension computed on the basis of the interest acquired by such contributor in the fund at the date of his transfer, in accordance with the tables hereinafter referred to.

Payments to be made to Treasurer and carried to credit of fund; allowance of interest on sums at credit.

12 The abatement of four per cent. from the salaries of all public officers, whose salaries shall be subject to abatement, shall be made by the Treasurer in proper proportion upon each occasion of his paying the salary, or any portion thereof, and placed to the credit of the fund, and all other payments and contributions to the fund shall be made to the Treasurer and placed to the credit of the fund.

Appointment of directors of fund; directors to make annual report.

13 For the due and proper management of the fund, the Governor in Executive Council shall annually appoint five public officers as directors thereof (any three of whom shall be sufficient to form a quorum), who shall be eligible for re-appointment, and whose duty it shall be to superintend and direct the management and administration thereof, and to see that the laws and regulations relating thereto are duly fulfilled and complied with; and it shall further be the duty of the said directors annually, on or before the thirty-first day of January of each year, to prepare or cause to be prepared, for the information of the Governor and Legislative Council, a detailed statement and account of the fund for the year ending thirty-first December preceding, with such report on the state and prospect of the fund as such directors may deem necessary.

Provision for cost of management of fund.

14 A sum not exceeding five per cent. shall be deducted from the annual contributions to the fund for the purpose of defraying all expenses connected with the management and administration of the fund.

Registers of contributors to fund to be kept.

15 A register shall be kept of the age of every public officer contributing to the fund, and, if married, of the date of the marriage of such officer, and the age of his wife, and the ages of his children (if any).

Certain information to be furnished by officers.

16 Every public officer who shall be admitted to contribute to the fund under the provisions of section 6 of this Ordinance, shall, if in the colony, within three months—or if abroad, within six months—from the date of his being so admitted to contribute, be bound to forward to the directors of the fund the dates of his birth, of his marriage (if married), and of the birth of his wife and of his children (if any), duly proved to the satisfaction of the directors by affidavit or otherwise.

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- 17** Every public officer whose salary or income is subject to abatement for the fund, and whose appointment shall be subsequent to the passing of this Ordinance, shall be bound, within six months after the date of his appointment, to furnish the directors with the date of his birth, the date of his marriage (if married), the date of his wife's birth, and the date of the birth of any child or children of such marriage, all duly proved to the satisfaction of the directors by affidavit or otherwise. Officers hereafter appointed to furnish certain information.
- 18** Every public officer whose salary or income is subject to abatement for the fund, who shall marry after the passing of this Ordinance, or who, being married, shall obtain a divorce from his wife, shall be bound, within six months after his marriage or divorce, to notify the same to the directors, and, in case of marriage, the age of his wife duly proved as aforesaid. Officer to notify his marriage.
- 19** Every public officer whose salary or income is subject to abatement for the fund, shall be bound to notify to the directors the birth of each legitimate child born to him within six months from the date of such child's birth, and the marriage of any female child under the age of twenty-one years within six months from the date of such child's marriage. Officer to notify birth of child.
- 20** Every public officer whose salary or income is subject to abatement for the fund, shall be bound to notify to the directors, within six months from the date of the event, the death of his wife or any of his children. Officer to notify death of wife or child.
- 21** Any public officer whom the directors may consider shall have failed or neglected to comply with any of the requirements aforesaid, or who shall, in the opinion of the directors, have given any false information in relation thereto, shall be liable to a fine for each default not exceeding fifty rupees, to be deducted from his salary or income by the Treasurer on an order to that effect by the directors of the fund, and to be placed to the credit of the fund. Penalty for non-compliance with foregoing.
- 22** The widows and orphans who will be entitled to pensions from the fund are the widows and orphans of public officers who shall have contributed towards the fund in accordance with the conditions of this Ordinance, save as hereinafter excepted. Who shall be entitled to pensions under this Ordinance.
- 23** No widow of a public officer who dies within one year from the date of marriage shall be entitled to a pension under the Ordinance, unless a lawful child is born of such marriage; and no child of any public officer born out of wedlock, but who by the laws of this colony has become or may become legitimate by subsequent marriage of the parents, shall be entitled to any pension or allowance from the fund. Exceptions from benefits of fund.
- 24** The allowance or pension to orphans shall cease, in the case of males at eighteen years of age, and in the case of females at twenty-one years of age, or on marriage. When pension to orphans shall cease.

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Pensions to be computed according to tables approved by Governor and Executive Council.

25 The pension or allowance to which a widow or any child of a deceased public officer is entitled shall be computed in accordance with tables to be approved of by the Governor in Executive Council, such tables to be subject to revision and re-adjustment from time to time as the Governor and Executive Council may deem necessary.

Pensions payable to orphans.

26 When a public officer, a widower, dies, leaving a child or children entitled to pensions, or when a widow of a public officer dies and there be a child or children of such public officer then living whose ages would entitle them to pension, such pensions shall be as follows:—If three in number or less, each child shall receive one-fourth of the allowance to which the wife of the officer would have been entitled had she survived him, or which the widow had been in receipt of after his death; if more than three, then the amount which the wife or widow would have received or had been receiving shall be divided equally among the children.

Provision in case of widow marrying.

27 The widow of a public officer receiving a pension from the fund, who marries again, shall forfeit all claim to any further pension from the date of her second marriage, and if there are any children of the first marriage whose ages would entitle them to a pension, such children shall be entitled to the same rate of pension as if both parents were dead.

Provision in case of children by a former marriage.

28 When a public officer dies leaving a widow and also children by a previous marriage whose ages entitle them to pensions from the fund, such children, if three or more in number, shall be entitled to one-half of the pension to which their mother, if she had survived their father, would have been entitled; if two children, to one-third; and if only one child, to one-fourth; and the widow to one-half of the pension to which she would have been entitled had there been no such children; but if there are no such children, or when they cease to be entitled to pensions, then the widow shall be entitled to her full pension. Should the stepmother of such children die leaving no lawful issue by such officer, such children shall be entitled to pensions as if their father had not married a second time; should the stepmother of such children die leaving lawful children, such children shall have the pension which their mother was entitled to equally divided among them.

What proof to be produced before payment of pensions.

29 Widows and orphans entitled to pensions from the fund, and residing out of the colony, must produce proof, to the satisfaction of the directors, of their being alive, and entitled thereto, before their pensions can be paid.

Pensions not to be assigned or levied upon.

30 No pensions payable from the fund shall be assignable or transferable, nor shall any pension payable from the fund be attached, arrested, or levied upon for or in respect of any debt or claim due by the recipient of such pensions.

Questions or disputes to be decided by

31 Should any question or dispute arise as to who is entitled to contribute to the fund, or as to the right of a widow or child to a pension from the fund, or as to the amount of

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such pension, all such questions and disputes shall be referred by the directors of the fund to the Governor in Executive Council for decision, and such decision shall be final.

Executive Council.

32 The pension payable to a widow or child or children under this Ordinance shall (except where the public officer dies within one year from the date of marriage, and there shall be no lawful child born of such marriage either before or after the death of such officer) commence upon the death of the husband or father, or mother or stepmother, as the case may be, shall accrue daily, and shall be paid monthly clear of any deduction until re-marriage or death of the widow, or until the cesser of eligibility in the case of children.

Pension to commence upon death of officer.

33 No widow of a public officer whose marriage was contracted after her husband had completed his thirty-five years of contribution, or had attained the age of sixty-five or had retired on pension, and no issue of such marriage, shall be eligible for any pension under this Ordinance.

Widow not entitled to pension if marriage contracted after husband's completion of thirty-five years' contribution.

34 No pension to which a widow or child or children may become entitled under this Ordinance shall exceed the sum of three thousand rupees per annum, provided that no public officer shall be compelled to pay any contributions beyond such as would bring up the pension to which a widow or child or children might be entitled to such maximum amount.

Pension not to exceed three thousand rupees.

35 No pension, whether payable to a widow or child or children, shall be increased or abated by reason of the person entitled to receive the same residing in a climate less or more healthy than that of Ceylon.

No increase of pension if residing in climate less or more healthy than Ceylon.

36 Fifty per cent. of the contributions made by a bachelor shall be returned, but without interest, upon the retirement, unmarried, of such officer from the public service on pension, but not otherwise.

Bachelor's contribution to be returned on retirement.

36 (1) Upon the retirement on pension of a public officer who is a bachelor, such officer shall not be called upon to make any further contribution to "The Widows' and Orphans' Fund," and his interest in the said fund shall upon such retirement cease and determine, subject, however, to the right reserved to him by section 36 to receive fifty per cent. of his past contributions.

Bachelors retiring on pension to cease to contribute.
[§ 6, 1 of 1890]

37 Should the official income of a public officer become reduced either by abatement of the ordinary emoluments or by the grant of a permanent superannuation allowance, such public officer may, should he so desire it, and upon his giving notice in writing to the directors of his desire to do so, continue his rate of contribution for the remainder of the thirty-five years, or until he shall attain the age of sixty-five, according to the full amount of contribution hitherto paid by him, in which case his widow or child or children shall be entitled to pension accordingly; but if such public officer only continues to contribute at the rate of four per cent. on his retiring allowance, any pension to his widow or child or children shall become diminished in the same amount as it would have been increased had such public officer's official income been raised instead of being lowered.

Contributions may continue in full if income reduced.

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Appointment of
actuary.

38 On the thirty-first day of December of the tenth year following the original establishment of the fund, under Ordinance No. 15 of 1884 (or so soon after as possible, and quinquennially thereafter), an actuary or actuaries to be appointed by the Governor in Executive Council shall make an investigation of the fund, and report in full as to its working, its results as compared with the estimates upon which it was based, its financial position, and whether any, and if so, what, re-adjustment of the benefits or contributions are considered necessary.

Pensions to be
subject to
re-adjustment
according to
finances.

39 All pensions contemplated by this Ordinance, whether in possession or reversion, shall be from time to time subject to re-adjustment according as the financial condition of the fund may after such investigation and report as is referred to in the next preceding section be found to be necessary and be determined upon by the Governor in Executive Council.

Directors may
make rules and
regulations.

40 It shall be lawful for the directors appointed under this Ordinance to frame rules and regulations not inconsistent therewith for the proper carrying out of the provisions of this Ordinance, provided that all such rules and regulations shall be approved of by the Governor in Executive Council, and shall be published in the *Government Gazette*.

Repeal.

41 The Ordinance No. 15 of 1884 and the Ordinance No. 37 of 1884 are hereby repealed; provided that such repeal shall not affect—

- (a) The past operation of anything duly done or suffered under the said Ordinances hereby repealed; nor
- (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred thereunder; nor
- (c) Any penalty or forfeiture incurred in respect of any breach of the provisions of the said Ordinances hereby repealed; nor
- (d) Any legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, or forfeiture as aforesaid.

Commencement
of Ordinance.

42 This Ordinance shall come into operation on a day to be fixed by the Governor by Proclamation* to be for that purpose published in the *Government Gazette*.

"Appointment."
[§ 4, 1 of 1880]

43 The term "appointment" in section 5 shall mean appointment whether original or by way of promotion; and all public officers who, upon their promotion, have heretofore contributed to "The Widows' and Orphans' Fund" shall be taken and deemed to have lawfully so contributed within the true intent and meaning of the said Ordinance.

11th December, 1885.

* Proclaimed the 1st day of April, 1886.