



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**WIDOWERS' AND ORPHANS' PENSION
(AMENDMENT) ACT, No. 9 OF 2010**

[Certified on 17th August, 2010]

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L.D.—O. 60/2006

AN ACT TO AMEND THE WIDOWERS' AND ORPHANS' PENSION
ACT, No. 24 OF 1983

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows :—

1. This Act may be cited as the Widowers' and Orphans' Pension (Amendment) Act, No. 9 of 2010. Short title.

2. The Widowers' and Orphans' Pension Act, No. 24 of 1983 (hereinafter referred to as the "principal enactment") is hereby amended by the insertion immediately after section 9 of that enactment, of the following new sections :— Insertion of new sections 9A and 9B in Act, No. 24 of 1983.

"Payment of pension to public officers &c., who die due to any act which constitutes an offence under Emergency Regulations &c.,

9A. (1) Where any officer who is subject to deductions under this Act dies before reaching her age of retirement due to any act which constitutes an offence under the Emergency Regulations for the time being in force or due to any natural disaster, the widower and the children of such officer shall notwithstanding any other provisions of this Act be entitled—

(a) from the date of such death, to receive a pension calculated in accordance with the provisions of this Act, based on the salary such officer was drawing at the time of her death, till the date on which had she lived, such officer would have reached her age of retirement ; and

(b) from and after the date on which she would have reached her age of retirement, to receive a pension calculated in accordance with the provision of this Act based on the revised salary, with all the increments to which, had she lived,

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such officer would have been entitled to receive till she reached her age of retirement.

(2) In calculating the pension for the purpose of subsection (1), the age of retirement shall be determined by the Director-General of Pensions, taking into consideration the circumstances of the death of the officer concerned, her period of service, and any other material particulars as applicable to each individual case.

(3) Where any person who is a female and who holds a temporary or casual post in the public service dies while in service due to any act which constitutes an offence under the Emergency Regulations or due to any natural disaster before being made permanent in her post, such person shall notwithstanding any other provisions of this Ordinance be deemed to be an officer to whom the provisions of section 9 of this Act applies as from the date of her death, and the widower and children of such person shall notwithstanding any other provisions of this Act, be entitled—

- (a) from the date of such death, to receive a pension calculated in accordance with the provisions of this Act, based on the payment such person was drawing at the time of her death, till the date on which had she lived, she would have reached fifty-five years of age ; and
- (b) from and after the date on which she would have reached fifty-five years of age, to receive a pension with all the increments to which, had she lived, she would have been entitled to receive till she reached fifty-five years of age.

(4) Any person to whom the provisions of subsection (3) applies shall be deemed to be a contributor under the Act, as from the date she joined the public service.

(5) Notwithstanding any other provisions of this Act, for the purpose of granting a pension under this section the officers referred to in subsection (1) of this section and the persons referred to in subsection (3) of this section shall be deemed to be contributors as from the date they joined the public service and shall be deemed to have paid the contributions due to the Fund in full, as at the date of their death.

(6) For the purpose of this section—

“emergency regulation” means any regulation made by the President under section 5 of the Public Security Ordinance (Chapter 40) ;

“natural disaster” shall have the same meaning as in Sri Lanka Disaster Management Act, No. 13 of 2005.

Payment of pension to widowers of officers specified in Schedule GQ of Minutes on Pensions.

9B. Notwithstanding the provisions of section 9, a widower of any officer—

(a) who is specified in the Schedule GQ of the Minutes on Pensions ; and

(b) who is entitled to a pension on the completion of five -years of service,

shall be entitled, on the demise of such officer, to receive a pension computed on the basis of the salary drawn by such officer on her retirement, in accordance with the provisions

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of this Act. The amount of such contributions shall be made to the Consolidated Fund with interest, for the total period of service and unless and until such contributions are paid with interest, the payment of pension under this section shall not commence.”.

Amendment of section 12 of the principal enactment.

3. Section 12 of the principal enactment is hereby amended in its proviso by the substitution for the words “an unmarried female orphan” of the words “female orphan.”

Replacement of section 18 of the principal enactment.

4. Section 18 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“Provisions in case of widower remarrying.

18. (1) The widower of a contributor shall in his re-marriage receive as pension after the date of such subsequent marriage—

- (a) half the amount of the pension which he was receiving at the time of such subsequent marriage ; or
- (b) where he was entitled to receive a pension but was not in actual receipt of the same, half the amount he was to receive in his capacity as a widower prior to such subsequent marriage.

(2) The children of the first marriage of the widower shall receive the remaining portion of the pension received by the widower, after payment to the widower is made in terms of paragraph (a) or (b) of subsection (1).

(3) Where the spouse of such subsequent marriage is a contributor under this Act, and where such widower becomes entitled to

receive a pension upon the death of such spouse in respect of the contributions made to the Pension Scheme by such spouse, the payment of such amount as he was receiving as pension in terms of paragraphs (a) and (b) of subsection (1) shall be terminated with effect from the date of death of such spouse of such subsequent marriage :

Provided that, where the payment of the pension is terminated as provided above, the children of the first marriage of the widower shall, as from the date of death of the spouse of their father's subsequent marriage, be entitled to receive the share they were receiving in terms of subsection (2) and the amount which their father was receiving in terms of subsection (1), prior to such termination :

Provided further that, in the event of the dissolution of such subsequent marriage, the widower shall be entitled to receive as pension the half share he received in terms of subsection (1) and the entitlement of the children under subsection (2) remains unchanged.”.

5. Section 25 of the principal enactment is hereby amended by the substitution for the words “any pension under this Act” of the following :—

Amendment of section 25 of the principal enactment.

“any pension under this Act :

Provided however that in the case of a contributor who has been retired prematurely due to abolition of post and who has ceased to make contributions as required by the Act, such contributor may, if she contracts a marriage before reaching the age of fifty-five years, be entitled to receive a pension calculated in accordance with the provisions of this Act, after paying the entirety of the contributions due, with interest thereon.”

Insertion of new section 26A in the principal enactment.

6. The following new section is hereby inserted immediately after section 26 of the principal enactment and shall have effect as section 26A of that enactment :—

“Special provisions applicable to married public officers who are contributors and who leave the public service without pension.

26A. A public officer, who being a contributor to the Pension Scheme and who leaves the public service prior to reaching her compulsory age of retirement, having completed ten or more years of service but not being eligible to receive a pension, shall not be eligible to a refund of the entirety or part of the contributions made by her to the Pension Scheme. However the widower and orphans of such public officer shall, upon her death, become entitled to receive a pension on the contributions made by her, calculated in accordance with the provisions of this Act.”.

Insertion of new section 31A in the principal enactment.

7. The following new section is hereby inserted immediately after section 31 of the principal enactment and shall have effect as section 31A of that enactment :—

“Regulations.

31A. (1) The Minister may make regulations in respect of all matters required by this Act to be prescribed or in respect of which regulations are authorized to be made under this Act.

(2) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified therein.

(3) Every regulation shall, as soon as convenient after publication in the *Gazette* be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of

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such disapproval but without prejudice to anything previously done thereunder.

(4) Notification of the date on which any regulation made by the Minister is deemed to be rescinded shall be published in the *Gazette*.”.

8. (1) The Provisions of subsection (1) of section 9A shall *mutatis mutandis* apply to the widower and children of any public officer who had been a contributor to the Pension Scheme and had died before the date of the coming in operation of this Act, under the circumstances specified in the aforesaid subsection.

Application of the provisions of Section 9A of the principal enactment to persons who had died before the date of operation of this Act.

(2) The provisions of subsection (3) of section 9A shall *mutatis mutandis* apply to the widower and children of any person who is a female and had held a temporary or casual post in the public service and died while in service, before the date of the coming in operation of this Act, under the circumstances specified in the aforesaid subsection (3).

(3) Any person to whom the provisions of subsection (2) of this section applies, shall be deemed to be a contributor under the principal enactment.

(4) For the purpose of granting of pension under subsections (1) and (2) of this section, the officers referred to in subsection (1) and the persons referred to in subsection (2) of this section shall be deemed to have paid all contributions due to the Pension Scheme from them, in full, as at the date of death of each such person.

9. Any widower or any child or children as the case may be, of any officer or person referred to in section 8 of this Act shall, on or before the date, to be appointed by the Minister by Order published in the *Gazette*, forward their claims to the Director-General of pensions in such form as may be prescribed by the Director-General.

Claims to be made to the Director-General.

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Retrospective
effect.

10. The provisions of section 4, 5 and 6 of this Act shall be deemed to have come into effect as from the date of coming into operation of the principal enactment.

Sinhala text to
prevail in case
of inconsistency.

11. In the event of any inconsistency between the Sinhala and Tamil text of this Act, the Sinhala text shall prevail.

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