



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

FISHERMEN'S PENSION AND SOCIAL
SECURITY BENEFIT SCHEME

ACT, No. 23 OF 1990

[Certified on 29th June, 1990]

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*Fishermen's Pension and Social Security Benefit Scheme
Act, No. 23 of 1990*

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L. D.—O 40/88.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A PENSION AND SOCIAL SECURITY BENEFIT SCHEME FOR FISHERMEN; TO PROVIDE FOR THE OPERATION OF THE SCHEME BY THE AGRICULTURAL INSURANCE BOARD; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THEREUNTO

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

1. This Act may be cited as the Fishermen's Pension and Social Security Benefit Scheme Act, No. 23 of 1990 and shall come into operation on such date as may be appointed by the Minister by Order published in the *Gazette*.

Short title and date of operation.

PART I

ESTABLISHMENT OF THE FISHERMEN'S PENSION AND SOCIAL SECURITY BENEFIT SCHEME

2. There shall be established according to the provisions of this Act, a scheme which shall be called the Fishermen's Pension and Social Security Benefit Scheme (hereinafter referred to as "the Scheme").

Establishment of the Fishermen's Pension and Social Security Benefit Scheme.

3. The objects of the Scheme shall be—

- (a) to provide social security to fishermen during their old age or disability;
- (b) to provide relief to the dependents of fishermen upon the death of such fishermen;
- (c) to encourage fishermen to continue in their occupation;
- (d) to attract young persons to the fishing industry; and
- (e) to inculcate the habit of saving and to promote thrift among the fishermen.

The objects of the Scheme.

4. The Minister may, having regard to the feasibility of administering the Scheme and the occupational hazards in any type of fishing, by Order published in the *Gazette*, determine the area in which the Scheme shall operate.

Area of operation of the Scheme to be determined by the Minister.

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Eligibility
to join
the
Scheme.

5. (1) Subject to the provisions of subsection (2), any fisherman who is not less than eighteen years of age and not more than fifty nine years of age shall be entitled to join the Scheme.

For the purpose of this subsection 'fisherman' means any person who makes his living by fishing or fish farming, whether in the sea, lagoons or inland bodies of water.

(2) The following persons shall not be entitled to join the Scheme :—

- (a) an owner of three or more machanized loats, the combined weight of which exceeds six tons gross ;
- (b) an owner of one or more fish farms, the total extent of which exceeds five acres ;
- (c) a person who by reason of his employment is entitled to receive a pension or benefits under the Employees Provident Fund established by the Employees Provident Fund Act, No. 15 of 1958 ;
- (d) a person liable to pay income tax ;
- (e) a person who is in receipt of a pension ; or
- (f) a person who is entitled to receive a pension on the death of his spouse.

Benefits
under
the
Scheme.

6. (1) A fisherman who joins the Scheme (hereinafter referred to as the "contributor") shall be entitled to the following benefits under the Scheme calculated on such basis as may be prescribed :—

- (a) a periodical pension of a prescribed amount ;
- (b) in case of permanent partial disablement, a lump sum gratuity or a pension when it becomes due ;
- (c) in case of permanent total disablement, a lump sum gratuity or periodical allowance of a prescribed amount ; or
- (d) a death gratuity.

(2) The basis of calculating a pension or gratuity shall be prescribed taking into consideration, *inter alia*, the period of contribution, the age of the contributor and the amount of contributions made by the contributor. |

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7. (1) A contributor shall be entitled to a pension on reaching the age of sixty years. A contributor who commences to contribute after reaching the age of fifty-five years shall, however, be entitled to a pension only after paying his entire contribution as may be prescribed and at the end of five years from the date of his joining the Scheme.

When pension is payable.

(2) The pension shall be paid upto the end of the month in which the contributor dies.

8. The Minister may, with a view to encouraging fishermen to join the Scheme prescribe either a rebate or a discount on the contributions to be paid by contributors.

Rebate on contribution.

9. Any contributor who is permanently and partially disabled before he becomes entitled to receive his pension shall, at his option, receive a disablement gratuity under the Scheme calculated on the prescribed basis and leave the Scheme or remain in the Scheme without paying any further contribution and receive the pension when it becomes due.

Partial disablement.

10. Any contributor who is permanently and totally disabled before he becomes entitled to receive his pension shall, at his option, receive a disablement gratuity under the Scheme calculated on the prescribed basis and leave the Scheme or receive a disablement allowance for life under the Scheme calculated on the prescribed basis and remain in the Scheme without paying any further contribution.

Total disablement.

11. In the event of the death of a contributor before he becomes entitled to receive his pension a death gratuity under the Scheme calculated on such basis as may be prescribed shall be paid to his surviving spouse and failing such spouse to one only of the relatives by blood of such contributor in the order of priority set out in the Schedule to this Act the older being preferred to the younger where there are more relatives than one in any group.

Death gratuity.

PART II

MANAGEMENT OF THE SCHEME

12. The Agricultural Insurance Board established under the Agricultural Insurance Law, No. 27 of 1973 (hereinafter referred to as "the Board") shall operate the Scheme in consultation with the Minister.

Agricultural Insurance Board to operate the Scheme.

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Powers,
duties
and
functions
of the
Board.

13. The Board shall in addition to the powers conferred on it by the Agricultural Insurance Law, No. 27 of 1973, have the following powers, functions and duties:—

- (a) to make rules in respect of the administration of the affairs of the Board with regard to the Scheme;
- (b) to refer to the Advisory Committee for advice any matter pertaining to the Scheme;
- (c) to maintain the required actuarial, financial and operational reports in respect of the Scheme;
- (d) to monitor, evaluate and review the Scheme and effect changes in the operational rules where necessary and where it is empowered to do so;
- (e) to determine the benefits to be paid to any contributor under the Scheme;
- (f) to employ officers, servants and other employees as are necessary for the efficient management of the Scheme; and
- (g) to do all other things which in the opinion of the Board are necessary to facilitate the operation and management of the Scheme.

Delegation
of powers,
functions
and
duties
of the
Board.

14. (1) The Board may delegate to the Chairman or any other member of the Board or any officer of the Board any of its powers, functions or duties under section 13.

(2) The Chairman, a member or an officer to whom any of the powers, functions or duties of the Board have been delegated under subsection (1) shall exercise, perform or discharge such powers, functions or duties subject to the general direction of the Board.

Board
to issue
policy to
each con-
tributor.

15. The Board shall on enrolment of any person as a contributor issue him with a policy setting out the contributions to be made by him, the terms and conditions of the policy and the benefits to which he is entitled under the policy issued to him.

Forfeiture
of policy.

16. (1) The date before which contributions are payable by a contributor shall be specified in the policy and any contributor who fails to pay ten consecutive instalments shall forfeit the benefits under the policy issued to him.

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(2) Where any contributor has forfeited the benefits under the policy issued to him the Board shall issue such contributor a notice to that effect.

(3) A contributor shall have the right to appeal to the Board to validate his policy and the Board shall validate the policy if it is satisfied that the reasons for failure to pay the instalments were beyond the control of the contributor.

(4) Where the Board decides to validate a policy the contributor shall be informed of the date before which the arrears of instalments will have to be paid. The date of such payment shall be the date of validation of the policy.

(5) Any contributor aggrieved by the decision of the Board shall have a right to appeal to the Secretary of the Ministry of the Minister whose decision shall be final and conclusive.

17. The award of benefit under the Scheme to any contributor shall be determined by the Board in accordance with the Scheme and the regulations made to give effect to the Scheme.

Board to determine the award.

18. (1) Any contributor who is not satisfied with the award of benefit determined by the Board may, within thirty days of receiving the notice of such award, make an appeal to the Secretary of the Ministry of the Minister stating the grounds of his appeal.

Appeal.

(2) The decision of the Secretary of the Ministry of the Minister on such appeal shall be final and conclusive.

(3) The Secretary to the Ministry of the Minister shall communicate to the appellant and the Board, his decision on an appeal made to him under subsection (5) of section 16 or subsection (1) of this section. It shall be the duty of the Board to give effect to every such decision.

19. No pension, gratuity or allowance payable from the Scheme shall be assigned or transferred, and every assignment or transfer shall be absolutely null and void and of no effect. No such pension or gratuity or allowance shall be attached or taken in execution on account of any debt or payment due by the person to whom such pension or gratuity or allowance is payable.

Pension, gratuity or allowance not to be assigned or levied upon.

PART III

ADVISORY COMMITTEE

The
Advisory
Committee.

20. There shall be an Advisory Committee (hereinafter referred to as the "Committee") which shall consist of the following members—

(a) six *ex officio* members, namely—

- (i) Chairman of the Agricultural Insurance Board who shall be the Chairman of the Committee.
- (ii) Director of Fisheries or his representative
- (iii) Director of Pensions or his representative
- (iv) the Chief Actuary of the Insurance Corporation of Sri Lanka or his representative ;
- (v) the Superintendent of the Department of the Employees' Provident Fund of the Central Bank of Sri Lanka or his representative ;
- (vi) the Commissioner of Labour or his representative ;

(b) six members, nominated as follows :—

- (i) two members nominated by the Minister from the Ministry in his charge ;
- (ii) one member nominated by the Minister from the General Treasury in consultation with the Minister in charge of the subject of Finance ;
- (iii) two members nominated by the Minister from the Agricultural Insurance Board in consultation with the Minister in charge of the subject of Agricultural Insurance ;
- (iv) one member nominated by the Minister from among persons who have a wide knowledge and experience in social security benefit schemes.

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21. (1) A person shall be disqualified from being nominated or from continuing to be a member of the Committee—

Qualifications and tenure of office of the members of the Advisory Committee.

(a) if he is a Member of Parliament or a Member of a Provincial Council; or

(b) if he has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as such member.

(2) Every nominated member of the Committee shall, unless he vacates office earlier by death, resignation or removal hold office for a period of three years.

(3) Where a nominated member of the Committee vacates office earlier as aforesaid, the Minister shall nominate another person in his place, having regard to the provisions of section 20 (b), and such member shall hold office during the unexpired period of the member whom he succeeds.

(4) If the Chairman for any reason is unable to perform the duties of his office the person who for the time being acts as the Chairman of the Agricultural Insurance Board shall act as the Chairman of the Committee and shall be deemed to be a member of the Committee while he so acts.

(5) If any nominated member of the Committee is temporarily unable to discharge his functions on account of ill-health or absence from Sri Lanka or any other cause the Minister may, having regard to the provisions of section 20 (b), nominate another person to act in his place.

(6) The Minister may, if he thinks it expedient to do so, by Order published in the *Gazette* remove any nominated member of the Committee without assigning any reason therefor and such removal shall not be called in question in any court.

(7) Any nominated member of the Committee may, at any time resign his office by letter addressed to the Minister.

(8) Any member of the Committee who vacates office other than a member who is removed from office shall be eligible to be reappointed.

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Powers
of the
Committee.

22. The Committee may exercise all or any of the following powers :—

- (a) to advise the Board on such matters relating to the management, operation and implementation of the Scheme as may from time to time be referred to it by the Board ;
- (b) to advise the Board with regard to making rules of the Board ;
- (c) to formulate policies under the Scheme for the efficient management, operation and implementation of the Scheme ;
- (d) to review the work of the Board with regard to the management, operation and implementation of the Scheme ; and
- (e) to advise and make recommendations to the Minister, with regard to the management, operation and implementation of the Scheme.

Remunera-
tion of
members
of the
Committee.

23. The members of the Committee may be paid such remuneration for attending the meetings of the Committee as may be determined by the Board with the approval of the Minister, in consultation with the Minister in charge of the subject of Finance. The members shall be reimbursed by the Board for such travelling, hotel and other expenses as they may incur for purposes connected with the work of the Committee.

Power
of the
Minister
in
relation
to the
Committee.

24. The Minister may give such general or special directions in writing as to the exercise of the powers of the Committee and the Committee shall give effect to such directions.

PART IV

FISHERMEN'S PENSION AND SOCIAL SECURITY BENEFIT FUND

Fishermen's
Pension
and
Social
Security
Benefit
Fund.

25. (1) There shall be established a Fishermen's Pension and Social Security Benefit Fund (hereinafter referred to as the "Fund").

(2) There shall be paid into the Fund—

- (a) such sums of money as may be voted from time to time by Parliament for the operation of the Scheme :

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- (b) such sums of money as may be advanced to the Board from time to time by the Minister in charge of the subject of Finance for the purposes of the Scheme ;
- (c) all sums of money received by the Board in the exercise, performance and discharge of its powers, duties and functions under this Act ;
- (d) all sums of money paid as contributions to the Scheme by the contributors ;
- (e) all sums of money received from any source as gifts and donations to the Fund ; and
- (f) all sums of money earned as interest or profits from investments.

(3) There shall be paid out of the Fund all sums of money required to defray any expenditure incurred by the Committee and the Board in the exercise, discharge and performance of the powers, duties and functions of the Committee and the Board, under this Act and all sums of money required to be paid out of the Fund, by or under this Act.

26. All moneys in the Fund which are not immediately required by the Board under this Act may be invested by the Board in such manner and in such securities as may be authorized by the Minister with the concurrence of the Minister in charge of the subject of Finance.

Investment
of funds.

27. (1) The Board may, with the concurrence of the Minister and the Minister in charge of the subject of Finance or in accordance with the terms of any general authority given with like concurrence, borrow by way of overdraft or otherwise, or negotiate and obtain on credit, such sums as the Board may require for meeting the obligations of the Board or carrying out the objects of the Scheme under this Act :

Borrowing
powers
of the
Board.

Provided that, the aggregate of the amounts outstanding in respect of the loans raised by the Board under this subsection shall not, at any time, exceed such sum as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

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(2) The Board may with the consent of the Minister given with the concurrence of the Minister in charge of the subject of Finance borrow money otherwise than by way of loans under subsection (1) for all or any of the following purposes :—

(a) the requisition or acquisition of any movable or immovable property required for the use of the Board for the purposes of the Scheme ;

(b) the repayment of any money borrowed under subsection (1).

Financial
year &c.

28. (1) The financial year of the Fund shall be the calendar year.

(2) The Board shall cause the books of the Fund to be balanced as on the thirty-first day of December in each year and shall before the thirtieth day of April next, cause to be prepared an **income and expenditure account** and a balance sheet containing a summary of the assets and liabilities of the Fund made upto the first-mentioned date, and a statement of investment of moneys of the Fund, indicating the purchase price and the market value, on the first mentioned date, of such investments.

(3) The income and expenditure account and the balance sheet shall be signed by the member of the Board authorized to do so by a resolution of the Board.

(4) The Auditor-General shall audit the accounts of the Scheme every year in accordance with Article 154 of the Constitution.

PART V

GENERAL

Regulations.

29. (1) The Minister may make regulations in respect of all matters which are stated or required by this Act to be prescribed or in respect of which regulations are required by this Act to be made, including—

(a) the regulation, administration and management of the Scheme ;

(b) the qualifications, conditions and circumstances in which, and the restrictions subject to which, any fisherman shall be eligible to join the Scheme ;

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- (c) the determination of the amount of contribution to be made by contributors;
- (d) the determination of the basis on which pensions, gratuities or allowances are payable to contributors under the Scheme;
- (e) conditions governing the default of payment of contributions, surrender of policy and loss of eligibility of a contributor;
- (f) regulation of the procedure for the transaction of business by the Board or the Committee;
- (g) the termination or forfeiture of the policy; and
- (h) the basis of determining partial and total disablement.

(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 in the regulation.

(3) Every such regulation shall, as soon as convenient after its 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 such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

30. (1) No suit or prosecution shall lie—

- (a) against the Board or the Committee for any act which in good faith is done by the Board or the Committee under this Act, or
- (b) against any member of the Board or the Committee, officer, servant or agent of the Board for any act which in good faith is done or purported to be done by him, under this Act or on the direction of the Board.

Protection
for
action
taken
under
this Act
or on the
direction
of the
Board.

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(2) Any expenses incurred by such person as is referred to in subsection (1) in any suit or prosecution brought against him before any Court in respect of any act which is done by him under this Act or on the direction of the Board shall, if the Court holds that the act was done in good faith be paid out of the Fund.

Offences.

31. Every person who contravenes or fails to comply with any provision of this Act, or of any regulation made thereunder shall be guilty of an offence and shall on conviction before a Magistrate be liable to imprisonment of either description for a term not exceeding six months or to a fine not exceeding one thousand five hundred rupees or to both such imprisonment and fine.

Sinhala
text to
prevail
in case of
inconsistency.

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

Interpretation

33. In this Act unless the context otherwise requires—
“prescribed” means prescribed by regulation made under this Act.

SCHEDULE

(Section 11)

Order of relatives by blood in the order of priority

- (1) Sons
- (2) Daughters
- (3) Grandsons
- (4) Grand-daughters
- (5) Father
- (6) Mother
- (7) Brothers
- (8) Sisters
- (9) Uncles
- (10) Aunts
- (11) Nephews
- (12) Nieces.