



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

SOCIAL SECURITY BOARD

ACT, No. 17 OF 1996

[Certified on 26th July, 1996]

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L. D.—O. 17/96

AN ACT TO ESTABLISH A SOCIAL SECURITY BOARD FOR THE MANAGEMENT OF THE PENSION AND SOCIAL SECURITY BENEFIT SCHEME FOR SELF EMPLOYED PERSONS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

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

1. This Act may be cited as the Social Security Board Act, No. 17 of 1996 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as "the appointed date").

Short title and date of operation.

PART I

ESTABLISHMENT OF SOCIAL SECURITY BOARD

2. (1) There shall be established a body called the Social Security Board (hereinafter referred to as "the Board") consisting of the persons appointed under section 3.

Establishment of the Social Security Board.

(2) The Board shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The Board shall consist of seven directors appointed by the Minister, one of whom shall be a representative of the Treasury.

Directors of the Board.

(2) The Minister shall appoint one of the Directors as the Chairman of the Board.

(3) The provisions of the First Schedule to this Act shall have effect in relation to the terms of office of the Directors and the remuneration payable to Directors, meetings of the Board, and the seal of the Board.

(4) Subject to other provisions of the Act the functions of the Board shall be to establish a Pension and Social Security Benefit Scheme for self employed persons other than those in the Fisheries and Agriculture sectors (hereinafter referred to as "The Scheme") and to administer and manage such scheme.

Functions of the Board.

Powers
of the
Board.

5. For the purpose of discharging its functions, the Board shall have the power to—

- (a) acquire, hold, take on lease or hire, mortgage, sell or otherwise dispose of, any movable or immovable property;
- (b) enter into, and perform, either directly or through any officer or agent authorized in that behalf, all such contracts as may be necessary for the discharge of its functions;
- (c) make rules in relation to its officers and servants, including their appointment, promotion, remuneration, disciplinary control and grant of leave to them;
- (d) administer and manage the Scheme;
- (e) maintain the required actuarial financial and operational reports in respect of the Scheme;
- (f) determine the benefits to be paid to any Contributor under the Scheme;
- (g) do all such other things as in the opinion of the Board, are necessary for the proper discharge of its functions or for the administration and implementation of the Scheme.

Application
of Act.

6. The Minister may, from time to time, having regard to the feasibility of administering the scheme and the occupational risks involved in occupations carried on by self-employed persons, determine by Order published in the Gazette the categories of self-employed persons who shall be entitled to contribute to the Scheme. Any self-employed person who falls into a category of self employed persons specified in an Order made under this section is hereinafter referred to as "a person to whom this Act applies".

PART II

PENSION AND SOCIAL SECURITY BENEFIT SCHEME FOR SELF-EMPLOYED PERSONS.

Eligibility
to join
the Scheme.

7. Any person to whom this Act applies who has the prescribed qualifications and is not less than eighteen years of age and not more than fifty-nine years of age shall be entitled to join the Scheme.

8. (1) A person to whom this Act applies who joins the Scheme (hereinafter referred to as the "Contributor") shall be entitled to the following benefits under the Scheme on such basis as may be prescribed—

Benefits
under the
Scheme

- (a) a periodical pension of a prescribed amount ;
- (b) in cases of permanent partial disablement, a lump sum gratuity or if he continues to pay his contributions after disablement, a lump sum gratuity and a pension when it becomes due ;
- (c) in cases of permanent total disablement, a lump sum gratuity or a periodical allowance of a prescribed amount ;
- (d) a death gratuity.

(2) The basis of paying a pension, allowance 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.

9. (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 up to the end of the month in which the Contributor dies.

10. The Minister may with a view to encouraging persons to whom this Act applies to join the Scheme prescribe either a rebate or a discount on the contribution to be paid by contributors.

Rebats
on
contribution.

11. Any Contributor who becomes permanently and partially disabled before he becomes entitled to receive his pension, shall receive a lump sum gratuity calculated on the prescribed basis and may either leave the Scheme or remain in the Scheme paying the balance contributions and receive the pension when it becomes due.

Partial
disablement

Total
disablement.

12. Any Contributor who becomes permanently and totally disabled before he becomes entitled to receive his pension shall at his option receive a lump sum gratuity calculated on the prescribed basis and leave the Scheme or receive a periodical allowance calculated on the prescribed basis, and remain in the Scheme without paying any further contributions.

Death
gratuity.

13. In the event of the death of a Contributor before he becomes entitled to receive his pension, a death gratuity calculated on such basis as may be prescribed shall be paid to his surviving spouse and legitimate children or to his immediate relatives by blood in such proportions and in such order of priority as is specified in the Second Schedule to this Act.

Board to
issue policy
to each
Contributor.

14. The Board shall on the enrolment of any person as a Contributor to the Scheme 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.

15. (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 instalments shall forfeit the benefits under the policy issued to him.

(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 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 the right of appeal to the Secretary to the Ministry of the Minister whose decision thereon shall be final and conclusive.

16. The award of benefits under the Scheme to any Contributor shall be determined by the Board in accordance with the Scheme and regulations made to give effect to the Scheme.

Board to determine award.

17. Any officer of the Board specially authorized in that behalf by the Chairman may, during any time of the day enter and inspect any premises or place of employment to ascertain the veracity of any particulars furnished by any Contributor with regard to his eligibility to be enrolled or to continue, as a Contributor to the Scheme.

Inspection of premises.

18. (1) Any Contributor who is dissatisfied with the award of any 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 on any such appeal shall be final.

19. No pension, gratuity or allowance payable from the Scheme shall be assigned or transferred and every such 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 from 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

STAFF OF THE BOARD

20. (1) The Chairman shall be the Chief Executive Officer of the Board.

Appointment of officers and servants of the Board.

(2) The Board shall have the power to appoint such number of officers, agents and servants as it considers necessary for the efficient discharge of its functions and the administration and implementation of the Scheme and to exercise disciplinary control over and dismiss any officer, agent or servant so appointed.

(3) The officers, servants and agents appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Board.

(4) At the request of the Board any public officer may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Board for such period as may be determined by the Board with like consent or be permanently appointed to such staff with like consent.

(5) Where any public officer is temporarily appointed to the staff of the Board the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991, shall, *mutatis mutandis*, apply to, and in relation to, him.

(6) Where any public officer is permanently appointed to the staff of the Board the provisions of subsection (3) of section 14 of the National Transport Commission Act No. 37 of 1991, shall, *mutatis mutandis*, apply to, in and relation to, him.

(7) Where the Board employs any person who has agreed to serve the Government for a specified period, any period of service with the Board by that person shall be regarded as service to the Government for the purpose of discharging the obligations of that person under such agreement.

PART IV

FINANCE

Fund
of the
Board.

21. (1) The Board shall have its own Fund (hereinafter referred to as "the Fund").

(2) There shall be paid into the Fund—

- (a) all such sums of money as may be voted from time to time by Parliament for the implementation of the Scheme;
- (b) all sums of money paid as contributions to the Scheme by Contributors;
- (c) all sums of money received from any source, as gifts and donations, to the Fund;
- (d) all sums of money earned as interest or profits from the investments of the Board;
- (e) all sums of money received by the Board, by the exercise, discharge and performance, of its powers, duties and functions under this Act.

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

22. All monies in the Fund which are not immediately required by the Board may be invested by the Board in such a 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 Money.

23. (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 and for administering and implementing the Scheme :

Borrowing
Powers.

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

(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,

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

24. (1) The financial year of the Board shall be the calendar year.

Financial
year and
Audit of
Accounts
of the Board.

(2) The Board shall cause proper books of accounts to be kept of the income and expenditure, assets and liabilities and all other transactions of the Board.

(3) The provisions of Article 154 of the Constitution relating to the audit of accounts of Public Corporations shall apply to the audit of the accounts of the Board.

Application of Inland Revenue Act, No. 28 of 1979 to the Board.

25. The Fund shall be deemed, for the purposes of paragraph (b) of subsection (2) of section 31 of the Inland Revenue Act, No. 28 of 1979, to be a fund established by the Government of Sri Lanka.

Application of Act No. 38 of 1971.

26. For the avoidance of doubts, it is hereby declared that the provisions of the Finance Act, No. 38 of 1971 shall apply to the Board.

PART V

GENERAL

Directors, officers and servants of the Board to be Public officers.

27. All Directors, officers and servants of the Board shall be deemed to be Public Officers within the meaning and for purposes of the Penal Code.

Board deemed to be a Scheduled Institution within the meaning of the Bribery Act.

28. The Board shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act shall be construed accordingly.

Delegation of powers and duties.

29. (1) The Board may delegate to the Chairman, a Director, or an officer or servant of the Board any of its powers and duties.

(2) Every person to whom any power or duty is delegated under subsection (1) shall exercise or perform such power or duty subject to the general or special directions of the Board.

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

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

(a) against the Board for any act which in good faith is done or is purported to be done by the Board under this Act, or

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

(2) Any expense incurred by the Board in any suit or prosecution brought by or against the Board before any Court shall be paid out of the Fund and any costs paid to, or recovered by, the Board in any such suit shall be credited to such Fund.

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

31. The Minister may make regulations in respect of all matters in respect of which regulations are authorized or required by this Act to be made, including— Regulations.

- (a) the regulation, administration and management of the Scheme;
- (b) qualifications entitling a person to whom this Act applies to join the Scheme;
- (c) the conditions on which, and the restrictions subject to which a person to whom this Act applies shall be entitled to join the Scheme;
- (d) the determination of the amount of the contribution to be made by Contributors;
- (e) the determination of the basis on which pensions, gratuities or allowances are payable to Contributors under the Scheme;
- (f) conditions governing the default of payment of contributions, by contributors, surrender of policy and loss of eligibility of a contributor;
- (g) the procedure for the transaction of business by the Board;
- (h) the termination or forfeiture of a policy, issued under this Act; and
- (i) the basis of determining partial and total disablement of a contributor.

(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 made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval but without prejudice to the validity of anything previously done thereunder.

(4) Notification of the date on which any regulation is so deemed to be rescinded shall be published in the Gazette.

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—
“Chairman” means the Chairman of the Board appointed under subsection (2) of section 3;

“Director” means a Director appointed under subsection (1) of section 3;

“local authority” means a Municipal Council, Urban Council or Pradeshiya Sabha and includes any Authority created or established by or under any law to exercise, perform and discharge, powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council or Sabha;

“prescribed” means prescribed by regulation made under this Act;

“Provincial Council” means a Provincial Council established under Chapter XVIIA of the Constitution.

[Section 3 (4)]

Provisions relating to the Directors of the Board

1. A person shall be disqualified from being appointed or from continuing as a Director, if he—

- (a) is a Member of Parliament or a member of a Provincial Council or a member of a local authority; or
- (b) is under any law in force in Sri Lanka or in any other country, found or declared to be of unsound mind; or
- (c) is a person who having been declared insolvent or a bankrupt under any law in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or
- (d) is a person on whom a sentence of imprisonment (including a suspended sentence) has been imposed by any court in Sri Lanka or any other country; or
- (e) has any such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a Director.

2. A Director may resign his office by letter addressed to the Minister

3. The Minister may without assigning any reason therefor, remove a Director from office and such removal shall not be called in question in any court of law or tribunal whether by way of writ or otherwise.

4. (1) Every Director shall, unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall, unless he has been removed from office, be eligible for reappointment:

Provided that a Director appointed in place of a Director who dies or resigns or otherwise vacates office shall, unless he earlier vacates office, hold office for the unexpired part of the term of office of the Director whom he succeeds.

(2) Where the Chairman or any other Director becomes, by reason of illness, infirmity or absence from Sri Lanka, temporarily unable to discharge the functions of his office, the Minister may appoint any other Director to act as the Chairman or any other person to act in place of such Director, as the case may be.

5. The Chairman and the Directors shall be paid such remuneration out of the Fund of the Board as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

6. A Director who is in any way directly or indirectly interested in any contract made or proposed to be made by the Board, shall disclose the nature of his interest at a meeting of the Board. This disclosure shall be recorded in the minutes of the meetings of the Board and such Director shall not take part in any deliberation or decision of the Board with respect to that contract, provided that the interest which any Director may have in a contract by virtue of his being an officer of a Government Department or Public Corporation or a Director of a Public Corporation shall be deemed not to be an interest within the meaning of this paragraph.

7. (1) The Chairman may resign his office as Chairman by letter in that behalf addressed to the Minister.

(2) The Minister may at any time and without assigning a reason therefor, remove the Chairman from office.

(3) The term of office of the Chairman shall be the period of his membership of the Board.

8. (1) Subject to the other provisions of this paragraph, the Board may regulate the procedure in regard to its meetings and the transaction of business at such meetings.

(2) The quorum for a meeting of the Board shall be four Directors.

9. No act, decision or proceeding of the Board shall be invalidated by reason only of the existence of a vacancy in the Board or any defect in the appointment of any of its Directors.

10. (1) The seal of the Board shall be in the custody of such persons as the Board may decide from time to time.

(2) The seal of the Board may be altered in such manner as may be determined by the Board.

(3) The seal of the Board shall not be affixed to any instrument or document except in the presence of two Directors who shall sign the instrument or document in token of their presence.

(4) The Board shall maintain a register of the instruments or documents to which its seal has been affixed.

SECOND SCHEDULE

(Section 13)

The proportions in which the death gratuity is payable and the order of priority shall be—

(a) one half or fifty per centum of the death gratuity to the surviving spouse; and

(b) the balance fifty per centum shall be shared by the surviving legitimate children of the deceased Contributor, in equal proportions;

(c) if there is no surviving spouse, the death gratuity in its entirety shall be shared by the surviving legitimate children of the deceased Contributor in equal proportions;

(d) if there are no surviving legitimate children, the death gratuity in its entirety shall be paid to the surviving spouse;

(e) if there is no surviving spouse or surviving legitimate children of the deceased contributor the death gratuity shall—

(i) if there is more than one surviving parent, be paid to the surviving parents in equal proportions;

(ii) if there is only one surviving parent, be paid to that parent in its entirety;

(iii) if there are more than one surviving brothers and sisters, be paid to the surviving brothers and sisters in equal proportions;

(iv) if there is only one surviving brother or sister be paid to that brother or sister in its entirety.