



THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

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PART II.—LEGAL.

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DRAFT ORDINANCES.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

L.D.—O. 5/46.

An Ordinance to amend the Probation of Offenders Ordinance, No. 42 of 1944.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

1. This Ordinance may be cited as the Probation of Offenders (Amendment) Ordinance, No. of 1946.

Short title.

2. Section 10 of the Probation of Offenders Ordinance, No. 42 of 1944 (hereinafter referred to as "the principal Ordinance"), is hereby amended, by the substitution, for sub-section (1), of the following new sub-section :—

Amendment of section 10 of Ordinance No. 42 of 1944.

"(1) Upon written application made for the purpose by the offender or by or on behalf of the Commissioner, and after consideration of such representations as may be made by the offender and by or on behalf of the Commissioner, the Court by which a probation order was made or the Magistrate's Court having jurisdiction in the place where the offender resides—

(a) may, at any time while such probation order is in force, make an order amending the probation order by the deletion or modification of any condition specified in that order or by the insertion of a new condition therein ; and

(b) may, after the expiry of a period which is not less than one half of the period for which the probation order is expressed to be in force, make an order cancelling such probation order or reducing the period of the duration of such order."

3. The following new section is hereby inserted immediately after section 10, and shall have effect as section 10A, of the principal Ordinance :—

Insertion of new section 10A in the principal Ordinance.

10A. The Court which makes a probation order or an order under section 10 (1), in respect of any offender, shall inquire from such offender whether he desires to have a translation of such order in the Sinhalese language or in the Tamil language ; and if on inquiry so made, the offender states that he desires to have such a translation, the Court shall cause such a translation prepared by a sworn translator or interpreter of the Court, to be delivered to such offender.

Sinhalese and Tamil translations of orders to be provided to offenders.

Objects and Reasons.

Under section 10 (1) of the Probation of Offenders Ordinance, No. 42 of 1944, a probation order cannot be varied by the deletion or modification of any of the conditions specified therein, until the expiry of at least one half of the period for which the order is expressed to be in force. Accordingly, it is not possible to vary any order for the purpose of rectifying any mistakes which are subsequently discovered or for the purpose of inserting therein any useful alterations necessitated by changed circumstances, until the expiry of one half of the aforesaid period. As variations for such purposes should be made as soon as they become necessary, clause 2 of the Bill enables the competent Court to make such variations at any time while the order is in force.

Copies of probation orders issued to offenders today under the Ordinance are prepared in English. As many of the offenders do not know English, clause 3 of the Bill provides for the issue of translations of such orders in Sinhalese or in Tamil to offenders who may desire to have such translations.

July 16, 1946.

A. MAHADEVA,
Minister for Home Affairs.

MINUTE.

The following Draft of a proposed Ordinance is published for general information :—

Chapter 296
(Volume VI.,
page 343).

L. D.—O. 49/36.

FN 1200 (W. & O.P.)

An Ordinance to amend the Widows' and Orphans' Pension Fund Ordinance and to provide for matters consequential thereto.

BE it enacted by the Governor of Ceylon, with the advice and consent of the State Council thereof, as follows :—

Short title.

1. This Ordinance may be cited as the Widows' and Orphans' Pension Fund (Amendment) Ordinance, No. of 1945.

Amendment of
section 2 of
Chapter 296.

2. Section 2 of the Widows' and Orphans' Pension Fund Ordinance, (hereinafter referred to as "the principal Ordinance"), is hereby amended as follows :—

(1) by the insertion, immediately before the definition of "Directors", of the following new definition :—

"appointed date" shall mean the date prescribed by the Governor to be the appointed date for the purposes of this Ordinance by Proclamation published in the *Gazette*, the power to prescribe such date being deemed to include the power to prescribe, if necessary, a date prior to the date of publication of the Proclamation ;

(2) by the insertion, immediately after the definition of "Directors", of the following new definition :—

"maximum period of contribution", with reference to any contributor, shall mean the period commencing on the date on which he becomes a contributor and ending either on the date on which he completes thirty-five continuous years as such contributor or on the date on which while still a contributor he completes sixty-five years of age, whichever is the earlier ;

(3) in the definition of "Public Officer", by the substitution, for all the words from "(b) any person who at the said time" to the end of that definition, of the following :—

"(b) any person who at the said time is holding, or who hereafter holds, or who on or after the appointed date holds on probation, any permanent office in the service of this Island which is separately provided for in the estimates and has been declared to be pensionable by notification published in the *Gazette* ; and

(c) any person who, having been a public officer as aforesaid, is in receipt of a pension from the Government of this Island in respect of his services as such officer ;

but shall not include any female officer ;" ; and

(4) by the insertion, immediately after the definition of "Public officer", of the following new definition :—

"repayable contributions", with reference to a widower without pensionable children, shall mean the contributions which he has made under this Ordinance since the date when his wife or the last of his wives died, or the date when his child or the youngest of his children ceased to be pensionable, whichever is the later date ;

Amendment of
section 4 of
the principal
Ordinance.

3. Section 4 of the principal Ordinance is hereby amended as follows :—

(1) by the substitution, for sub-section (2) of that section, of the following sub-section :—

"(2) Subject as hereinafter provided, such interest shall be at the rate of six per centum per annum, free from any deduction :

Provided that for the period commencing on the first day of January, nineteen hundred and twenty, and ending on the thirty-first day of December,

nineteen hundred and forty-four, such interest shall be at the rate of eight per centum per annum, free from any deduction.”; and

- (2) by the addition, at the end of that section, of the following new sub-sections :—

“ (4) Where the Governor is at any time satisfied that the amount of interest payable annually to the Fund in accordance with the preceding provisions of this section is such that the Fund is likely to be insufficient to meet all payments required by this Ordinance to be made from the Fund, he may direct that for such number of years as he may specify in the direction such sum as he may so specify shall be paid to the Fund out of the general revenue of the Island.

(5) All moneys payable by way of interest, and all sums payable by direction of the Governor, under the preceding provisions of this section, shall be paid out of the general revenue of the Island; and the payment of all such moneys and sums is hereby charged upon such revenue.

(6) When all payments required by this Ordinance to be met from the Fund have been made, the balance of the Fund shall be paid to the general revenue of the Island ”.

4. The provisions of section 3 of this Ordinance shall be deemed to have come into operation on the first day of January, nineteen hundred and forty-five.

Date of operation of section 3 of this Ordinance.

5. Section 5 of the principal Ordinance is hereby amended as follows :—

Amendment of section 5 of the principal Ordinance.

- (1) in sub-section (4) thereof, by the substitution, for the words “ The Directors shall ”, of the following :—

“ The Directors, or such officer appointed under sub-section (6) of this section as may be authorised in that behalf by the Directors, shall ”;

- (2) in sub-section (8) thereof, by the substitution, for all the words from “ The officers ” to “ entitled to pension ”, of the following :—

“ The officers entitled to pension ”;

and

- (3) in sub-section (9) thereof, by the substitution, for the words “ meeting, providing that ”, of the following :—

“ meeting : Provided that ”.

6. Section 8 of the principal Ordinance is hereby amended as follows :—

Amendment of section 8 of the principal Ordinance.

- (1) in sub-section (1) thereof, by the substitution, for all the words from “ the salary ” to the end of that sub-section, of the following :—

“ the full salary or pension, as the case may be, of every public officer, notwithstanding that for any month he may receive as salary an amount less than the full salary or may not receive as salary any amount whatsoever. ”;

- (2) in sub-section (2) thereof, by the omission of all the words from “ And in the case of ” to the end of that sub-section; and

- (3) in sub-section (3) thereof, by the substitution, for the words “ together with interest thereon at six per centum per annum, ”, of the following :—

“ together with compound interest at six per centum, or, after the appointed date, at four per centum per annum, ”.

7. Section 13 of the principal Ordinance is hereby amended as follows :—

Amendment of section 13 of the principal Ordinance.

- (1) by the substitution, for all the words from “ A public officer ” to “ such retirement or deprivation. ”, of the following :—

“ Where, on any date, a public officer who is not a bachelor retires from or otherwise leaves the public service without a pension, or a public officer, whether he is or is not a bachelor, is removed from the office in respect of which he was contributing to the Fund and is appointed to a non-pensionable office on a monthly or yearly rate of salary, such public officer may, within six months after such date or within any further time which the Directors may in special circumstances grant, elect to contribute monthly the same amount as he last contributed before such date, and, if he so elects, he shall continue so to contribute subject to the same terms and conditions as applied to him at such date. ”;

and

(2) by the substitution, for all the words from " at the date of his so retiring " to " ceasin ", of the following :—
" at such date or at the date of his ceasing ".

Amendment of section 14 of the principal Ordinance.

8. Section 14 of the principal Ordinance is hereby amended by the addition, at the end of that section, of the following :—

" Provided, however, that where such officer is so transferred on or after the appointed date, he shall not be entitled to continue to contribute to the Fund in accordance with the preceding provisions of this section, unless, within six months after the date on which he is so transferred or within any further time which the Directors may in special circumstances grant, he elects so to continue to contribute. "

Insertion of new section 14A in the principal Ordinance.

9. The following new section is hereby inserted immediately after section 14, and shall have effect as section 14A, of the principal Ordinance :—

Payment of contributions under section 13 or section 14.

" 14A. Every contribution under section 13 or section 14 shall be paid before the fifteenth day of the month next succeeding the month in respect of which such contribution is due. Where such contribution is not paid before that day, it shall be deemed to be in arrear. All arrears of such contributions shall be paid or recovered together with compound interest at six per centum, or, after the appointed date, at four per centum per annum. "

Amendment of section 15 of the principal Ordinance.

10. Section 15 of the principal Ordinance is hereby amended, in sub-section (1) thereof, by the substitution in paragraph (b), for the words " with six per centum compound interest ; ", of the following :—

" with compound interest at six per centum, or, after the appointed date, at four per centum per annum ; "

Insertion of new sections 15A, 15B, and 15C in the principal Ordinance

11. The following new sections are hereby inserted immediately after section 15, and shall have effect as sections 15A, 15B and 15C, of the principal Ordinance :—

" Application of this Ordinance to a public officer having more than one wife.

15A. The application of this Ordinance to a public officer having two or more wives shall be subject to the following provisions :—

(1) Only the first in time of the existing marriages of such officer shall be deemed to be a valid marriage for the purposes of this Ordinance :

Provided, however, that a marriage, which has become the first in time of the existing marriages of such officer by reason only of the dissolution of an earlier marriage by a divorce, shall not be deemed to be so valid unless the divorce can itself be deemed to be valid under paragraph (2) of this section.

(2) A divorce dissolving any marriage of such officer shall be deemed to be a valid divorce for the purposes of this Ordinance if, but only if, that divorce has not at any time been preceded by a divorce dissolving any other marriage of such officer.

(3) Where any marriage of such officer becomes a valid marriage for the purposes of this Ordinance by reason of the dissolution of any other marriage of such officer, the date next following the date of such dissolution shall be deemed to be the date of the first mentioned marriage for the purposes of the computation of any pension payable under this Ordinance to the wife of that marriage when she becomes a widow, or to any child born of that marriage when that child becomes an orphan.

(4) No pension under this Ordinance shall be awarded—

(a) to any wife of such officer whose marriage to him could not at any time during his life-time have been deemed to be a valid marriage within the meaning of paragraph (1) of this section ; or

(b) to any child of such officer born of any marriage which could not at the time of the birth of the child have been deemed to be a valid marriage as aforesaid.

Application of sections 16 to 19 in the case of a public officer having more than one wife.

15B. The provisions of sections 16, 17, 18, and 19; relating to declarations and notifications to be transmitted to the Directors, shall, in the case of a public officer having two or more wives, apply in all respects to each marriage of that public officer and to the wife and to each child of that marriage, whether that marriage is or is not a valid marriage for the purposes of this Ordinance.

15C. Where the marriage of a contributor, other than a contributor having two or more wives, is dissolved by a divorce, he shall, for the purposes of this Ordinance, be deemed to have become a widower."

Effect of a divorce.

12. Section 16 of the principal Ordinance is hereby amended by the omission of all the words from "The public officer" to the end of that section.

Amendment of section 16 of the principal Ordinance.

13. The following new section is hereby inserted immediately after section 19, and shall have effect as section 19A, of the principal Ordinance :—

Insertion of new section 19A in the principal Ordinance.

19A. Every public officer who transmits to the Directors a declaration under section 16 or section 17 or a notification under section 18 or section 19, and every guardian who transmits to the Directors a notification under section 19, shall furnish to the Directors such proof of the statements made in the declaration or notification as may be required by them."

"Proof of statements made in declaration or notification.

14. Section 22 of the principal Ordinance is hereby amended by the substitution, for the words "mother of such child," of the following :—

Amendment of section 22 of the principal Ordinance.

"mother of such child while such public officer is contributing to the Fund,".

15. Section 23 of the principal Ordinance is hereby amended by the addition, at the end of that section, of the following :—

Amendment of section 23 of the principal Ordinance.

"Provided, however, that in the case of a male orphan whose father is a public officer appointed after the fourteenth day of March, nineteen hundred and six, and who attains the age of eighteen years on or after the appointed date, the allowance or pension shall cease at the age of twenty-one years."

16. Section 25 of the principal Ordinance is hereby amended as follows :—

Amendment of section 25 of the principal Ordinance.

(1) by the substitution, for the word "triennially," of the following :—

"triennially up to and including the thirty-first day of December, nineteen hundred and thirty-three, and thereafter at such times as the Governor may determine." ;

and
(2) in the marginal note to that section, by the substitution, for the word "Triennial", of the word "Periodical".

17. The provisions of section 16 of this Ordinance shall be deemed to have come into operation on the first day of January, nineteen hundred and thirty-four.

Date of operation of section 16 of this Ordinance.

18. Section 26 of the principal Ordinance is hereby amended by the addition, at the end of that section, of the following :—

Amendment of section 26 of the principal Ordinance.

"The preceding provisions of this section shall have no application in respect of any surplus which may be disclosed by any such valuation of such assets and liabilities as on any day after the thirty-first day of December, nineteen hundred and thirty ; but every active or prospective pension which in accordance with those provisions has been increased in consequence of any surplus disclosed by any such valuation of such assets and liabilities as on any date prior to the first day of January, nineteen hundred and thirty-one, shall continue to be payable as so increased, notwithstanding any deficiency which may be disclosed at any such valuation subsequently made."

19. The provisions of section 18 of this Ordinance shall be deemed to have come into operation on the first day of January, nineteen hundred and thirty-one.

Date of operation of section 18 of this Ordinance.

20. The following new sections are hereby inserted immediately after section 31, and shall have effect as sections 31A and 31B, of the principal Ordinance :—

Insertion of new sections 31A and 31B in the principal Ordinance.

31A. A pension payable under this Ordinance to a widow may be paid by the Directors to a fit and proper person on behalf of the widow. Where the pension is so paid, the person receiving the pension shall apply it, in accordance with such terms and conditions as may be determined by the Directors, for the maintenance, support, or benefit of the widow and her child or children, if any, who would be entitled on her death to receive a pension under this Ordinance.

"Payment of pension due to a widow.

Failure to maintain child.

31B. Where the Directors are satisfied that a widow who is in receipt of a pension under this Ordinance has deserted or abandoned, or is failing to maintain or assist, so far as her means allow, a child who would be entitled on her death to receive a pension under this Ordinance, the Directors may, in their absolute discretion, pay to such child, or to a fit and proper person on behalf of such child, such portion of the widow's pension as they may think fit, and the widow shall have no further claim in respect of any portion of her pension so paid. Any portion of a widow's pension paid under this section to any person on behalf of a child of the widow shall be applied by that person, in accordance with such terms and conditions as may be determined by the Directors, for the maintenance, support, or benefit of such child."

Substitution of new section for section 32 of the principal Ordinance.

21. Section 32 of the principal Ordinance is hereby repealed and the following new section substituted therefor :—

"Payment of pension due to a minor.

32. A pension payable under this Ordinance to a minor may be paid by the Directors either directly to the minor or to such holder of a designated office or such other person as may be appointed, in writing signed by not less than three of the Directors, to receive the pension on behalf of the minor. Where the pension is paid to any person so appointed, he shall apply the pension for the maintenance, support, or benefit of the minor in accordance with such terms and conditions as may be determined by the Directors."

Amendment of section 34 of the principal Ordinance.

22. Section 34 of the principal Ordinance is hereby amended by the substitution, for all the words from "it shall be lawful" to "submit", of the following :—

"the Directors may on their own initiative, and shall at the written request of such officer, widow, or child, submit".

Insertion of new sections 38A and 38B in the principal Ordinance.

23. The following new sections are hereby inserted immediately after section 38, and shall have effect as sections 38A and 38B, of the principal Ordinance :—

"Application of section 38.

38A. The provisions of section 38 shall not apply in any case where, on or after the appointed date, a bachelor retires from or otherwise leaves the public service or dies while in such service.

Special provisions relating to refunds in the case of bachelors.

38B. (1) Where, on or after the appointed date, a bachelor retires from or otherwise leaves the public service while making contributions under this Ordinance, he shall cease to make such contributions and shall be granted a refund of the entirety of his contributions under this Ordinance with compound interest thereon at 2½ per centum per annum.

(2) Where, before the appointed date, a bachelor ceases to make contributions under this Ordinance while in the public service owing to the expiry of his maximum period of contribution, he shall be granted a refund of one half of his contributions under this Ordinance without interest.

(3) Where, on or after the appointed date, a bachelor ceases to make contributions under this Ordinance while in the public service owing to the expiry of his maximum period of contribution, he shall be granted a refund of the entirety of his contributions under this Ordinance with compound interest thereon at 2½ per centum per annum.

(4) Where a bachelor dies before receiving any refund to which he has become entitled under any of the preceding sub-sections of this section, the amount of that refund shall be paid to his legal representative, or heir, or heirs.

(5) Where, on or after the appointed date, a bachelor dies while in the public service and while making contributions under this Ordinance, the entirety of his contributions under this Ordinance shall be paid to his legal representative, or heir, or heirs, with compound interest thereon at 2½ per centum per annum."

Amendment of section 39 of the principal Ordinance.

24. Section 39 of the principal Ordinance is hereby amended in sub-section (1) thereof by the substitution, for all the words from "the contributions" to "happened:" of the following :—

"the repayable contributions of such contributor :".

Insertion of new sections 39A, 39B, and 39C in the principal Ordinance.

25. The following new sections are hereby inserted immediately after section 39, and shall have effect as sections 39A, 39B and 39C, of the principal Ordinance :—

"Application of section 39.

39A. The provisions of section 39 shall not apply in any case where, on or after the appointed date, a contributor—

(a) being a widower without pensionable children, retires from or otherwise leaves the public service or dies while in such service, or

(b) becomes such a widower after retiring from such service on pension.

39B. (1) Where a widower without pensionable children, by reason of his failure to exercise his right under section 39, does not cease to make contributions under this Ordinance, he may at any time after the appointed date elect to cease to make such contributions, and, if he so elects, he shall be granted a refund of the entirety of any contributions made by him under this Ordinance on or after such date with compound interest thereon at $2\frac{1}{2}$ per centum per annum.

Special provisions relating to refunds in the case of widowers without pensionable children.

(2) Where, on or after the appointed date, a person who is making contributions under this Ordinance—

(a) retires from or otherwise leaves the public service while a widower without pensionable children, or

(b) becomes such a widower after retiring from or otherwise leaving such service,

he may at any time thereafter elect to cease to make such contributions, and, if he so elects, he shall be granted a refund of the entirety of his repayable contributions with compound interest thereon at $2\frac{1}{2}$ per centum per annum.

(3) Where, before the appointed date, a widower without pensionable children ceases to make contributions under this Ordinance while in the public service owing to the expiry of his maximum period of contribution, he shall be granted a refund of one half of his repayable contributions without interest.

(4) Where, on or after the appointed date, a widower without pensionable children ceases to make contributions under this Ordinance while in the public service owing to the expiry of his maximum period of contribution, he shall be granted a refund of the entirety of his repayable contributions with compound interest thereon at $2\frac{1}{2}$ per centum per annum.

(5) Where a widower without pensionable children dies before receiving any refund to which he has become entitled under any of the preceding sub-sections of this section, the amount of that refund shall be paid to his legal representative, or heir, or heirs.

(6) Where, on or after the appointed date, a widower without pensionable children dies while in the public service and while making contributions under this Ordinance, the entirety of his repayable contributions shall be paid to his legal representative, or heir, or heirs with compound interest thereon at $2\frac{1}{2}$ per centum per annum.

(7) Where a widower without pensionable children elects under sub-section (1) or sub-section (2) of this section to cease to make contributions under this Ordinance, the election shall be final.

39C. Compound interest on such contributions under this Ordinance as are to be refunded under section 38B or section 39B shall be payable up to the date on which the refund becomes due and not up to the date on which the amount of the refund is paid, and shall be calculated in the same manner as compound interest on the contributions made under this Ordinance by a contributor during his bachelorhood is calculated for the purposes of the computation of the pension in consideration of the contributions so made."

Calculation of compound interest for the purposes of sections 38B and 39B.

26. Section 44 of the principal Ordinance is hereby amended as follows:—

(1) in sub-section (1) of that section—

(a) by the substitution, for the words "are entitled to, shall," of the following:—

"are entitled, shall";

and

(b) by the substitution, for all the words from "computable and payable" to the end of that sub-section, of the following:—

"computable and payable—

(a) for the period ending on the thirty-first day of December, nineteen hundred and nineteen, according to the tables in Schedule II;

(b) for the period commencing on the first day of January, nineteen hundred and twenty, and terminating on the day before the appointed date, according to the tables sanctioned by the Governor on the twenty-seventh day of February, nineteen hundred and twenty-two; and

Amendment of section 44 of the principal Ordinance.

(c) for the period commencing on the appointed date, according to the tables sanctioned by the Governor on the 3rd day of August, nineteen hundred and forty-five :

Provided, however, that the computation of the variation to be effected, as a result of any variation of the contribution on or after the appointed date, in the pension payable under this Ordinance in respect of any contributor appointed to be a public officer after the fourteenth day of March, nineteen hundred and six, but before the appointed date, and the computation of the pension payable under this Ordinance in respect of any such contributor who for the first time marries on or after the appointed date, shall be in accordance with the tables sanctioned by the Governor on the 3rd day of August, nineteen hundred and forty-five, or the tables so sanctioned on the twenty-seventh day of February, nineteen hundred and twenty-two, whichever may produce the larger ultimate pension :

Provided further that, notwithstanding the provisions of Rule 1 (a) set out in Schedule I, in the case of a public officer who has been appointed after the fourteenth day of March, nineteen hundred and six, and who has commenced to be a contributor while a bachelor, compound interest on the contributions made by him during his bachelorhood shall, for the purposes of the computation of the pension in consideration of those contributions, be calculated—

(a) in respect of any period terminating on or before the thirty-first day of December, nineteen hundred and nineteen, at 6 per centum per annum ;

(b) in respect of any period commencing on or after the first day of January, nineteen hundred and twenty, and terminating before the appointed date, at 8 per centum per annum ; and

(c) in respect of any period commencing on or after the appointed date, at 6 per centum per annum.” ;

and

(2) in sub-section (3) of that section, by the substitution, for the words “ All such pensions as aforesaid ”, of the following :—

“ All pensions payable under the preceding provisions of this section in respect of public officers appointed after the fourteenth day of March, nineteen hundred and six, and all amounts to be refunded and all interest to be paid under this Ordinance to such officers or to their legal representatives or heirs, ”.

Insertion of new section 44A in the principal Ordinance.

“ Actuarial investigation of scheme of paying pensions in respect of public officers referred to in section 40.

Non-application of the principal Ordinance in the case of certain retired Muslim public officers.

27. The following new section is hereby inserted immediately after section 44, and shall have effect as section 44A, of the principal Ordinance :—

44A. An investigation of the scheme of paying pensions under this Ordinance in respect of public officers referred to in section 40 shall be made, at such times as the Governor may determine, by an actuary approved by the Governor.”.

28. The provisions of the principal Ordinance shall not be deemed to have applied or to apply to any retired Muslim public officer who was on the first day of September, nineteen hundred and twenty-eight, receiving a pension from the Government of the Island in respect of his services as such officer.

29. All contributions purporting to have been made under the principal Ordinance prior to the date on which this Ordinance comes into operation by any person while holding on probation any permanent office referred to in paragraph (b) of the definition of "Public officer" contained in section 2 of the principal Ordinance shall, if those contributions have not been refunded to him, be deemed to have been duly made by him as though he had been at all material times a public officer to whom the principal Ordinance applied.

Contributions purporting to have been made under the principal Ordinance by a probationer.

30. All contributions purporting to have been made under the principal Ordinance prior to the date on which this Ordinance comes into operation by any non-Muslim public officer legally entitled to have more than one wife shall, if those contributions have not been refunded to him, be deemed to have been duly made by him as though he had been at all material times a public officer to whom the principal Ordinance applied, and any pension purporting to have been granted under the principal Ordinance in respect of those contributions shall be deemed to have been validly granted.

Contributions purporting to have been made under the principal Ordinance by non-Muslim public officer legally entitled to have more than one wife.

31. Where any of the existing marriages of a public officer having two or more wives has been deemed, under the Widows' and Orphans' Pension Fund (Muslim Public Officers) Ordinance, to be a valid marriage for the purposes of the principal Ordinance, that marriage shall, notwithstanding anything in the provisions of section 15A of the principal Ordinance, be deemed for those purposes to be a valid marriage and not any other of those existing marriages.

Validity of a marriage which has been deemed to be valid under Chapter 297.

Cap. 297.

32. Where a person has become a contributor under the principal Ordinance after the first day of September, nineteen hundred and twenty-eight, his contributions under that Ordinance shall, notwithstanding that his appointment as a public officer within the meaning of that Ordinance may have been made on or before the fourteenth day of March, nineteen hundred and six, be credited to the general revenue of the Island and not to the Fund established under that Ordinance; and the amount of such contributions shall not be assessable for military contribution under the Defence Contribution Ordinance.

Contributions of a person who has become a contributor after September 1, 1928.

Cap. 294.

33. The Widows' and Orphans' Pension Fund (Muslim Public Officers) Ordinance is hereby repealed.

Repeal of Chapter 297.

Objects and Reasons.

The object of this Bill is to improve the Widows' and Orphans' Pension Fund Ordinance (Chapter 296) by effecting various amendments which many years' experience has shown to be necessary.

2. As the definition of "public officer" contained in section 2 of the Ordinance does not now permit a person holding a pensionable post on probation to become a contributor under the Ordinance, that definition is to be suitably amended by Clause 2 of the Bill. Clause 29 will, in addition, validate any contributions which may have already been made under a mistake of law by any such person.

3. In order to give effect to the suggestion that the Ordinance should be made applicable to public officers having more than one wife, it is proposed that the proviso to the definition of "public officer" should be deleted (Clause 2), that additional provisions relating to the application of the Ordinance to such officers should be inserted (Clause 11), and that the Special Ordinance relating to Muslim public officers should be repealed (Clause 33). A number of amendments which are consequential on these are set out in Clauses 28, 30, 31 and 32.

4. Clauses 3 and 4 deal with the question of the reduction of the rate of interest on moneys belonging to the Fund from 8 per centum to 6 per centum per annum as from January 1, 1945. Under the amended law, the payment of the interest and of any deficit in the Fund caused by the reduction of the rate of interest will be a charge upon the general revenue and any balance ultimately left of the Fund will be credited to revenue.

5. Section 5 (4) of the Ordinance imposes on the Directors of the Fund the duty of administering the Fund. They have no power to delegate that duty to any officer appointed under the Ordinance. The amendment contained in Clause 5 of the Bill will create this power.

6. Section 8 of the Ordinance is to be amended so as to make it clear that the monthly contribution of a public officer is calculated on his full salary (Clause 6).

Amendments are also to be made which will make it obligatory to pay arrears of contributions with compound interest at 6 per centum, or, after the appointed date, at 4 per centum per annum and will provide for a time limit for the payment of contributions (Clauses 6, 9 and 10).

7. By the proposed amendment to section 13 of the Ordinance the right of continuing to make contributions will be extended to officers who, not being bachelors, leave the public service without a pension, and to officers who are transferred from a pensionable office to a non-pensionable office on a monthly or yearly rate of salary (Clause 7).

8. There is no time limit fixed for electing to exercise the right under section 14 of the Ordinance. That section will be amended so as to provide such a time limit (Clause 8).

9. The amendment to section 22 of the Ordinance will provide that an illegitimate child who is legitimized by the subsequent marriage of his parents shall be a beneficiary only if the marriage takes place while his father is making contributions (Clause 14).

10. The age at which a male orphan ceases to be entitled to a pension will be raised to 21 years in the case of every orphan whose father received his first appointment after March 14, 1906, and who attains the age of 18 years on or after the appointed date (Clause 15).

11. The triennial valuation of the Fund will be discontinued, and provision will be made that after December 31, 1933, the Fund shall be valued at such times as the Governor may determine (Clauses 16 and 17).

12. Effect is also to be given to the proposal that any surplus disclosed at a valuation of the Fund as on any day after December 31, 1930, should not be distributed in accordance with the provisions of section 26 of the Ordinance and that active or prospective pensions which have been increased under those provisions should continue to be payable as so increased (Clauses 18 and 19).

13. The Directors are to be given a discretion to pay the pension of a widow to a fit and proper person on her behalf. Where a widow who is receiving a pension does not maintain a child who would be entitled on her death to a pension, the Directors will be able to pay a portion of the widow's pension to the child or to a fit and proper person on behalf of the child (Clause 20).

14. The pension of a minor is to be payable either to him or to the holder of a designated office or to some other person appointed by the Directors to receive the pension on behalf of the minor (Clause 21).

15. Section 34 of the Ordinance will be amended so as to make it clear that a matter in dispute may be submitted to the Governor either on the initiative of the Directors or at the written request of any public officer, widow, or orphan (Clause 22).

16. Those of the existing provisions of the Ordinance which relate to the refund of contributions made by public officers who are bachelors or widowers without pensionable children are incomplete and unsatisfactory, and are to be replaced by new provisions. Under the new provisions it will be possible to refund in certain cases the entirety of such contributions with compound interest at 2½ per centum per annum (Clauses 23 and 25).

17. The objects of the amendments to section 44 of the Ordinance are—

- (a) to indicate the cases in which the new tables sanctioned by the Governor should be used for computing pensions under the Ordinance;
- (b) to prescribe new rates at which compound interest on contributions made by a public officer during his bachelorhood should be calculated when computing the pension in consideration of those contributions; and
- (c) to provide that all pensions in respect of public officers appointed after March 14, 1906, and all amounts to be refunded and all interest due to such officers, or to their legal representatives or heirs, shall be paid out of the general revenue of the Island (Clause 26).

18. A new section is to be inserted in the Ordinance in order to provide that an actuarial investigation of the scheme of paying pensions in respect of public officers appointed after March 14, 1906, shall be made at such times as the Governor may determine (Clause 27).

Financial Secretary's Office,
Colombo, August 5, 1946.

C. E. JONES,
Acting Financial Secretary.