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Compulsory Public Service Act, No. 70 of 1961

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Compulsory Public Service Act, No. 70 of 1961

L. D.—O. 46/61.

AN ACT TO MAKE PROVISION FOR ENABLING THE CALLING UP FOR COMPULSORY PUBLIC SERVICE OF PERSONS WHO ARE GRADUATES OF THE UNIVERSITY OF CEYLON OR ANY OTHER UNIVERSITY ESTABLISHED IN CEYLON, OR OF ANY UNIVERSITY OUTSIDE CEYLON AND WHO UNDERGO A COURSE OF TECHNICAL TRAINING IN THE UNIVERSITY OF CEYLON OR ANY OTHER SUCH UNIVERSITY, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: 29th December, 1961]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Compulsory Public Service Act, No. 70 of 1961.

Short title.

2. The provisions of this Act shall apply to every person who, unless he is in employment or is a Member of Parliament or Senator, on or after the date of the commencement of this Act,—

Graduates to whom this Act applies.

(a) becomes a graduate of the University of Ceylon, or any other University established in Ceylon to which a grant is made by the Government; or

(b) becomes a graduate of any University outside Ceylon and thereafter undergoes a course of technical training provided by or in the University of Ceylon or any other University established in Ceylon; or

(c) being a medical graduate of the University of Ceylon, or any other University established in Ceylon, thereafter becomes a medical practitioner within the meaning of the Medical Ordinance.

Every such person is in this Act referred to as a "graduate to whom this Act applies".

3. (1) Every graduate to whom this Act applies shall, as from the date on which he becomes such a graduate, be a person subject to compulsory public service.

Graduates to whom this Act applies subject to compulsory public service.

1—J. N. B 38877—1,700 (12/62)

21 *Compulsory Public Service Act, No. 70 of 1961*

(2) A graduate subject to compulsory public service shall, if he is not duly appointed to any appropriate office in the public service at any time before the expiry of the prescribed period after the date on which he became subject to such service, cease to be subject to such service. Different periods may be so prescribed in respect of different classes of graduates who are subject to compulsory public service.

Obligation imposed on graduates subject to compulsory public service to accept and continue employment in the public service.

4. (1) A graduate subject to compulsory public service who, while he is so subject, is duly appointed to any appropriate office in the public service shall be under an obligation—

- (a) to accept that appointment;
- (b) to commence to serve in that office on the date on which his appointment is due to take effect; and
- (c) subject to the provisions of section 12 and sub-section (3) of this section, to continue to serve in that office, or in any other subsequent appropriate office in the public service to which he may be duly transferred or appointed, until the date on which his appointment or subsequent appointment to the service is due to expire (not being a date later than a period of five years after the date on which such person became subject to such service), or until the date on which his appointment to such service is duly terminated, whichever date is earlier.

(2) A graduate on whom an obligation is imposed by sub-section (1) of this section to accept any appointment to any appropriate office in the public service, and to commence to serve in that office, shall, if such graduate is unable to discharge that obligation by reason of his having been declared to be medically unfit to do so after a duly conducted medical examination, be deemed to be exempted from the liability to discharge that obligation.

(3) A graduate who, while he is discharging the obligation imposed on him by sub-section (1) of this section to continue to serve in any appropriate office in the public service, is granted permission to pursue a course of technical education in any institution outside Ceylon for any period, shall be under an obligation

at the end of that period to recommence service in that office, or any other appropriate office in such service to which he may be duly transferred, and to continue to serve in that office or such other office for that period, and accordingly the date on which his appointment to such service is due to expire shall be reckoned by reference to the period on which it would have expired but for the period during which he pursued such course increased by the period during which he pursued such course.

(4) A graduate on whom an obligation is imposed by sub-section (1) of this section to continue to serve in any appropriate office in the public service shall, if he does not continue in that office for any period during which he is pursuing a course of technical education in any institution outside Ceylon with the prior permission of the person or authority entitled to grant such permission, be deemed to be exempted from the liability to discharge such obligation during that period. The preceding provisions of this sub-section shall not be deemed or construed to affect or prejudice the operation of the provisions of sub-section (3) of this section.

(5) Any graduate who fails to discharge the obligation imposed on him by sub-section (1) or sub-section (3) of this section shall, unless he is a graduate deemed to be exempted from the liability to discharge that obligation, be guilty of an offence under this Act and shall be liable to a fine not exceeding one hundred and fifty rupees for every day during which such failure continues.

5. (1) The Head of the University of Ceylon, or any other prescribed University established in Ceylon to which a grant is made by the Government, shall be under an obligation to give the prescribed authority written notice of the fact that a person has become a graduate of that University within a period of fourteen days after the date on which such person became such a graduate.

(2) The Head of any University who fails to discharge the obligation imposed on him by sub-section (1) of this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding fifty rupees for every day during which such failure continues.

Obligation imposed on the head of a Ceylon University to give information to the prescribed authority relating to persons who are subject to compulsory public service.

4 *Compulsory Public Service Act, No. 70 of 1961*

Obligation imposed on persons in regard to the employment of graduates subject to compulsory public service.

6. (1) Every person shall be under an obligation not to employ, or continue in his employment, any graduate on whom an obligation is imposed by sub-section (1) or sub-section (3) of section 4 for so long and so long only as such graduate has not discharged that obligation unless such graduate is deemed to be exempted from the discharge of that obligation under this Act:

Provided, however, that it shall be a defence for any person charged with the offence of having failed to discharge the obligation imposed on him by the preceding provisions of this section (in this Proviso referred to as "the accused") in relation to any graduate to prove that the accused had no reason to believe that such graduate had not discharged the obligation imposed on him by sub-section (1) or sub-section (3) of section 4 and that, as soon as the accused became aware that there was a failure on his part to discharge the obligation imposed on him by the preceding provisions of this section, the accused took immediate steps to discharge that obligation.

(2) Every person who fails to discharge the obligation imposed on him by sub-section (1) of this section shall be guilty of an offence under this Act and shall be liable to a fine not exceeding one hundred and fifty rupees for every day during which such failure continues.

(3) No suit or prosecution shall lie against any person for any act which in good faith is done or purported to be done by him in order to discharge the obligation imposed on him by sub-section (1) of this section.

Orders.

7. (1) The Minister may make Orders for or in respect of all matters required or authorised by this Act to be prescribed.

(2) Any Order made by the Minister shall be published in the *Gazette*, and shall come into force on the date of such publication, or on such later date as may be specified in the Order.

(3) Any Order made by the Minister shall, on its coming into force as provided in sub-section (2) of this section, be as valid and effectual as if it were herein enacted.

Compulsory Public Service Act, No. 70 of 1961 5

8. All offences under this Act may be tried summarily by a Magistrate.

Offences under this Act summarily triable.

9. Nothing in the provisions of this Act shall be deemed or construed to affect, prejudice, or curtail, in any way—

Powers of appointment, etc., of the Public Service Commission or the Judicial Service Commission not to be affected or curtailed by this Act.

(a) the power of appointment, transfer, dismissal and disciplinary control of public officers vested in the Public Service Commission ;
or

(b) the power of appointment, transfer, dismissal and disciplinary control of judicial officers vested in the Judicial Service Commission,

by the Ceylon (Constitution) Order in Council, 1946.

10. Where an offence under this Act is committed by a body of persons (other than a University), then,—

Offences under this Act committed by a body of persons.

(a) if that body of persons is a body corporate, every director or officer of that body corporate, and

(b) if that body of persons is a firm, every partner of that firm,

shall be guilty of that offence :

Provided, however, that a director or officer of such body corporate or a partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

11. (1) In this Act, unless the context otherwise requires—

Interpretation.

“ appropriate office ”, in relation to a graduate to whom this Act applies of any prescribed class or description, means any office of any such grade or class in the public service as may have been prescribed as being appropriate for the appointment of the category of graduates of that class or description ;

“ duly appointed ”, in relation to any appropriate office in the public service, means appointed to that office, under and in accordance with the provisions of any

6 *Compulsory Public Service Act, No. 70 of 1961*

written law for the time being applicable to such appointment, by the person or authority empowered to make such appointment by or under that law;

“duly conducted medical examination”, in relation to any appropriate office in the public service, means a medical examination conducted under and in accordance with the provisions for the time being applicable to members of the public service;

“duly terminated”, in relation to any appropriate office in the public service, means the termination of service in that office, under and in accordance with the provisions of any written law for the time being applicable to such termination, but does not include resignation from that office without the prior approval of the person or authority empowered to terminate such service;

“duly transferred”, in relation to any appropriate office in the public service, means a transfer to or from that office made or effected, under and in accordance with the provisions of any written law for the time being applicable to such transfer, by the person or authority empowered to do so by or under that law;

“graduate”, in relation to any University, means a person on whom a degree or diploma has been conferred by that University, or who is or will be entitled to the conferment of such degree or diploma by reason of his having completed a successful course of training or study in that University;

“Head”, in relation to any University, means the Vice-Chancellor for the time being of that University or, in the absence of a Vice-Chancellor, the person, by whatever name called, who for the time being occupies the position of Head of the management or administration of the affairs of that University;

“ public service ” means the service consisting of members who are the holders of paid offices as servants of the Crown in respect of the Government of the Island, but does not include the persons referred to in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (j) and (k) of the definition of the expression “ public officer ” occurring in Section 3 of the Ceylon (Constitution) Order in Council, 1946; and

“ technical ” means artistic, scientific, or professional.

(2) For the purposes of this Act—

(a) the appointment of a person to any appropriate office in the public service shall be deemed to be due to take effect on the date specified in the letter or other instrument by which such appointment is made, or on such later date to which it may have been postponed by the person or authority who made such appointment; and

(b) the appointment of a person to any appropriate office in the public service shall be deemed to be due to expire, if a date is specified in the letter or other instrument by which the appointment was made (not being a date expiring later than a period of five years from the date on which he became subject to compulsory public service), on that date or, if no date is so specified, at the end of such period of five years.

12. The provisions of paragraph (c) of subsection (1) of section 4, and paragraph (b) of subsection (2) of section 11, shall, in their application in the case of any graduate who is a person of the description referred to in paragraph (b) of section 2, have effect as if for the word “ five ” wherever it occurs in such provisions, there were substituted the word “ three ”.

Modification of certain provisions of this Act in case of particular graduates.