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DRAFT ORDINANCES.

MINUTE.

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

An Ordinance to consolidate and amend the Law providing for the granting of Pensions to Widows and Orphans of Deceased Public Officers of this Colony.

Preamble.

WHEREAS it is expedient to consolidate and amend the law providing for the granting of pensions to the widows and orphans of deceased public officers of this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Short title.

1 This Ordinance may be cited as "The Widows' and Orphans' Pension Fund Ordinance, 1897," and shall come into operation on such day as the Governor may by Proclamation in the *Government Gazette* appoint.

Repeal.

2 On and from the day on which this Ordinance comes into operation the Ordinance No. 21 of 1896 is repealed; provided that such repeal shall not affect—

- (a) The past operation of anything duly done or suffered under the said Ordinance hereby repealed; nor
- (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred thereunder; nor

(c) Any penalty or forfeiture incurred in respect of any breach of the provisions of the said Ordinance hereby repealed; nor

(d) Any legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, or forfeiture as aforesaid.

Interpretation of terms:

3 The following words and expressions when used in this Ordinance shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant to such construction:

“Public officer.”

“Public officer” shall mean and include—

- (1) Any person who at the time of the passing of this Ordinance is holding or has held any office in the public service of this colony, and is contributing in respect of his salary or pension to the fund established under the provisions of the Ordinance No. 20 of 1885;
- (2) Any person who at the said time is holding or who shall hereafter hold any permanent office in the service of this colony which is (a) separately provided for on the estimates and (b) has been declared to be pensionable by notification published in the *Government Gazette*, and who draws a salary from the Colonial Treasurer of two hundred and fifty rupees per annum or upwards, either in respect of one or of two or more such offices held permanently and conjointly; and
- (3) Any person who, having been a “public officer” as last aforesaid, is in receipt of a pension from the Government of this colony in respect of his services as such. Provided that the provisions of this Ordinance shall not apply to any officer who is by law entitled to have more than one wife at any one-time, nor to the widow or children of any such officer.

“Salary.”

“Salary” shall mean the remuneration paid to an officer in respect of any permanent office held by him in the service of this colony in respect of which office he may become entitled under any regulations which are now or which may hereafter be in force to a pension, but shall not include any fees accruing to any officer in respect of such office.

“Directors.”

“Directors” shall mean the directors appointed under section 6 of this Ordinance.

“Treasurer.”

“Treasurer” shall mean the officer holding the office of Treasurer of the colony.

Fund how constituted.

4 There shall be carried to the fund created under the Ordinances Nos. 20 of 1885 and 21 of 1896, and which shall continue to be styled “The Widows’ and Orphans’ Pension Fund” (hereinafter referred to as “the fund”), such sums as are hereinafter required to be contributed thereto, and such fund, together with the accretions of interest thereto, shall be applicable to the payment of the expenses of management thereof as hereinafter provided, and of pensions to the widows and orphans now chargeable to the same under and subject to the provisions of any repealed Ordinances and to the widows and orphans of the public officers now or hereafter contributing to the same under and subject to the provisions hereinafter contained.

Investment of fund.

5 All moneys belonging to the fund, whether arising from past or future contributions, fines, interest, or otherwise, shall be invested with the Government of this colony, and shall bear interest payable by the said Government during the continuance of the fund, or until by Ordinance passed not earlier than the first day of March, One thousand Nine hundred and Two, the rate of interest be altered, at the rate of six per centum per annum free from any deduction, and such

interest shall be made up on the thirty-first day of December in each year, and shall be calculated upon the mean monthly balance standing in the hands of the Treasurer of the Colony to the credit of such fund during the course of the year.

Appointment of directors.

6 (1) For the due and proper management of the fund the Governor, with the advice of the Executive Council, shall appoint any number of public officers, not exceeding five, as directors thereof.

Cancellation of such appointment.

(2) It shall be lawful for the Governor, with the advice of the Executive Council, to cancel and annul the appointment of any person appointed to be a director, and upon notification thereof in the *Government Gazette* such person shall cease to be a director, and shall cease to have and exercise the powers of a director.

Substitution of director.

(3) In the event of the death of a director, or in the event of the absence from the island of a director, or in the event of the cancellation and revocation of the appointment of any director, the Governor, with the advice of the Executive Council, shall appoint a public officer to be a director in place of the director who shall have died, or shall be absent from the island, or whose appointment shall have been cancelled or revoked, and such person so appointed shall have and exercise all the powers and duties reposed in a director by this Ordinance.

Management of fund.

(4) The directors shall superintend and direct the management and administration of the fund, and shall see that the laws and regulations relating thereto are duly fulfilled.

Annual report.

(5) It shall be the duty of the directors annually, on or before the thirty-first day of January, to prepare a statement and account of the fund for the year ending the thirty-first December preceding, and such statement and account shall be laid before the Governor and the Legislative Council.

Appointment of agents, &c.

(6) The Governor may from time to time appoint such officer or officers as he may consider fit and necessary for carrying out the provisions of this Ordinance, and all persons so appointed shall hold office during the pleasure of the Governor.

Pension to officers employed under the directors.

(7) The Governor, with the advice of the Executive Council, may, if it shall appear expedient to him, from time to time prescribe rules for the grant of retiring pensions or gratuities to officers and servants appointed under this Ordinance and to those heretofore appointed, and the directors of "The Widows' and Orphans' Pension Fund" shall, subject to such rules, pay such pensions and gratuities out of the moneys of "The Widows' and Orphans' Pension Fund."

Officers to give security.

(8) The officers receiving salaries of Rs. 250 and upwards from the moneys of "The Widows' and Orphans' Pension Fund," and entitled to pension under any rule made under the preceding section, are hereby declared to be public officers within the meaning of this Ordinance, and may be required to give security under the provisions of "The Public Officers' Security Ordinance, 1890."

Meetings of directors.

(9) At every meeting of the directors the senior public officer present shall preside. Every question shall be decided by the vote of the majority of those directors present at the meeting, provided that if the votes be equally divided the chairman shall have a casting vote in addition to his vote as director. There shall be no meeting at which there shall not be at the least three directors present and voting.

Cost of management of fund.

7 A sum not exceeding five per centum of the annual contributions to the fund may be paid by the Treasurer to the directors for the purpose of defraying all expenses connected with the management and administration of the fund, provided that no payment shall be made to any director as salary or remuneration for his own services without the consent and approval of the Governor, with the advice of the Executive Council.

Directors may make rules and regulations.

8 The directors shall frame rules and regulations not inconsistent with the provisions of this Ordinance for the proper carrying out of the provisions thereof, and such rules and regulations when approved by the Governor, with the advice of the Executive Council, and published in the *Government Gazette*, shall be valid and binding upon all persons.

Abatement from salaries and pensions.

9 (1) From and after the commencement of this Ordinance a monthly abatement of four per centum shall be made from the salary or pension, as the case may be, of every public officer.

Treasurer and Crown Agents to deduct from salaries and pensions.

(2) The abatement of four per centum from the salaries and pensions of contributors shall be made by the Treasurer, or in case of payments made by the Crown Agents by such Crown Agents, upon each occasion of payment of salary or pension, and shall be placed to the credit of "The Widows' and Orphans' Pension Fund."

Proviso.

Provided that in the latter case such abatement of four per centum shall be calculated and made in rupees by the Crown Agents on the full salary in rupees payable to such contributor when employed in the colony, or on the pension in rupees payable to such contributor if resident in the colony, and such contributor shall be entitled to receive from the Crown Agents the equivalent in sterling of the balance in rupees of such salary or pension, calculated at the rate at which such contributor is entitled to receive such salary or pension in England.

And in the case of a contributor entitled only to a half of such full salary, such contributor shall be entitled to receive from the Crown Agents the equivalent in sterling calculated in manner aforesaid of the balance in rupees of the half of such full salary after the abatement of four per centum has been calculated on such full salary in rupees and made on the half of such full salary in rupees.

Officers required to pay abatement to Treasurer.

(3) In the event of such abatement not being made, every public officer shall pay to the Treasurer or Crown Agents within fifteen days after the receipt by him of his salary or pension a sum equal to four per centum upon his monthly salary or pension, or in the event of any public officer being on leave without salary such public officer shall pay before the fifteenth day of each and every month during the continuance of such leave, to the Treasurer or Crown Agents, a sum equal to four per centum upon the full salary which he would have received monthly had he not been on leave. All sums due under the provisions of this sub-section and the arrears of any contribution due and payable under the provisions of the Ordinance No. 21 of 1896 shall be taken to be a debt due to the fund by the public officer, and shall be payable to the Treasurer or Crown Agents, together with interest thereon at six per centum per annum, forthwith or by such instalments as the directors may determine. The Treasurer or the Crown Agents shall, upon the written order of the directors or of any two of them, deduct from any moneys which may be or may become due or payable to the public officer by whom such debt is payable the whole or any part of such debt. The provisions of the Ordinance No. 22 of 1871 shall not apply to any such debt.

Period for which abatement shall be made.

10 The abatement of four per centum from the salary of a public officer shall continue to be made until such officer attains the age of sixty-five years, should he continue so long in the public service, at which date it shall cease; such abatement shall also cease after an officer has been subject to the abatement for thirty-five successive years.

Officer retiring on pension not to be called upon to contribute more than four per cent. from such pension.

11 A public officer who from any cause whatever ceases to belong to the public service and retires on a pension shall not be called upon to make any further contribution to the fund beyond a monthly abatement from his pension of four per centum on such pension, to commence from the date of his retirement until he attains sixty-five years of age or has been subject to abatement for thirty-five years, when such abatement shall cease.

Provided that in the event of such public officer having no wife or male child below the age of eighteen years, or female child unmarried and below the age of twenty-one years, at any time intimating his intention in writing to the directors not to contribute further, he shall not be required to contribute further, and he shall be considered as having ceased to have any interest in the fund, and shall have no claim thereon.

Contributions may continue in full if income reduced.

12 Whenever the salary of a public officer becomes reduced by abatement of the ordinary emoluments or by retirement on pension, such public officer may elect to continue to contribute upon the higher salary which he was receiving previous to such reduction, and subject to the same terms and conditions as if he had continued to draw the higher salary. Should such public officer not elect so to continue to contribute upon the higher salary, and contribute on the lower salary or pension, any pension to his widow or children shall be diminished in the same amount as it would have been increased had such public officer's salary been increased and not diminished.

An officer deprived of his office may continue to contribute.

13 A public officer who may retire from the public service, or who may be deprived of the office in respect of which he contributed to the fund, but who shall not be granted a pension, may continue to contribute from the date of his so retiring or being deprived of his office on the salary which he was receiving at the date of such retirement or deprivation, at the same rate and subject to the same terms and conditions as if he had continued in the public service and continued to receive the salary which he was receiving at the date of such retirement or deprivation. In the event of his ceasing to contribute, or in the event of any contributions due from him not having been paid for six months, his widow or his widow and orphans, as the case may be, shall be entitled upon the death of such public officer only to a pension computed on the basis of the interest acquired by such contributor in the fund at the date of his so retiring or being deprived of his situation or of his ceasing to contribute, in accordance with the tables hereinafter referred to.

Provisions for case of officers transferred to other employment under the Crown.

14 A public officer other than a bachelor who has been transferred prior to the passing of this Ordinance, or who may be hereafter transferred from the service of this Government to any other office under the Crown, may continue to contribute to the fund from the date of his ceasing to hold office in the service of this Government on the salary which he was receiving at the date of such transfer, at the same rate and subject to the same terms as if he had continued in the service of this Government and continued to receive the salary which he was receiving at the date of such transfer. In the event of his ceasing to contribute, or in the event of any contribution due from him not having been paid for six months, his widow or his widow and orphans, as the case may be, shall be entitled after the death of such public officer only to a pension computed on the basis of the interest acquired by such contributor to the fund at the date of his being transferred or of his ceasing to contribute in accordance with the tables hereinafter referred to.

Officer to furnish particulars within three months of his appointment.

15 Every public officer shall, within three months of the date of his becoming liable to contribute to the fund, forward to the directors a declaration setting forth the date of his becoming so liable, his own name in full and the date of his birth, and if he be married the date of his marriage and the maiden name in full and the date of birth of his wife, and if he have any child or children their names in full and the date of each of their births. The public officer making the declaration shall furnish to the directors such proof of the statements made therein as may be required by the directors.

Officer to notify marriage.

16 Every public officer who shall marry after the passing of this Ordinance shall, within three months of his marriage, forward to the directors a declaration setting forth the date of such marriage and the maiden name of his wife and the date

- of her birth, and if there be any children by him born to his wife prior to his marriage he shall make a declaration setting forth the names and date of birth of each of such children.
- 17** Every public officer shall, within three months, notify to the directors the date of the birth of each child born to him after the passing of this Ordinance.
- 18** Every public officer whose wife shall die or be divorced from him, or whose child shall die, or whose female child shall be married, and the guardian of every child who shall die or of every female child who shall be married, shall, within three months thereof, notify to the directors the date of such death, divorce, or marriage.
- 19** Every public officer who shall in the judgment of the directors have failed, omitted, or refused to perform any duty cast upon him, or to do any act required of him by this Ordinance or by the rules and regulations made as herein provided, or who shall in the judgment of the directors have furnished any false information or made any false declaration, may be adjudged by the directors to pay for each such omission, default, refusal, false information, or declaration a penalty not exceeding fifty rupees. The Treasurer shall, upon the judgment of the directors being notified to him, deduct such penalty from the first moneys payable to the public officer as salary or otherwise, and shall pay such amount to the credit of the fund.
- 20** The widows and orphans entitled to pensions from the fund are the widows and orphans of public officers who have contributed to the fund in accordance with the provisions of this Ordinance or the Ordinances Nos. 20 of 1885 and 21 of 1896, save as hereinafter excepted. No pension shall become due, and no pension shall be paid to any widow or orphan of any public officer, until every debt due to the fund by such public officer shall have been fully discharged.
- 21** No widow of a public officer who dies within one year from the date of his marriage shall be entitled to a pension under this Ordinance unless a lawful child is born of such marriage. The child of any public officer born out of wedlock, who has become legitimate by the subsequent marriage of such public officer with the mother of such child, shall be entitled to a pension or allowance from the fund, unless his father shall have died within twelve months of such marriage, in which case such child shall lose all interest in the fund.
- Provided that it shall be lawful for the directors, with the consent of the Governor in Executive Council, to award a pension to such widow or child if it shall appear to them just and reasonable in the special circumstances of any case.
- 22** The allowance or pension to orphans shall cease in the case of males at the age of eighteen years, and in the case of females on marriage or at the age of twenty-one years.
- 23** The pension or allowance to which a widow or child of a deceased public officer is entitled shall be computed according to tables to be approved of by the Governor with the advice of the Executive Council. Such tables shall be adjusted and revised by an actuary or actuaries who shall be from time to time appointed by the Governor with the advice of the Executive Council. All pensions to widows or children, whether in possession or in expectation and reversion, shall be subject to re-adjustment, and shall be computed upon the tables so adjusted and revised, and diminished or increased accordingly.
- 24** When a public officer being a widower and unmarried shall die or have died leaving a child or children entitled to pensions, or when a widow of a public officer shall die or have died and there be a child or children of such public officer surviving entitled to pension, the pensions of such child or children shall be the amount which the widow would have received or had been receiving, equally divided among the children.

Officer to notify birth of child.

Officer to notify death of wife, or if she be divorced from him.

Penalty for non-compliance with foregoing.

Who shall be entitled to pension.

Exceptions from benefits of fund.

When pension to orphans shall cease.

Pension how computed.

Pension to orphans.

Provision in case of widow marrying.

25 The widow of a public officer who marries again shall cease to receive a pension from the date of such marriage ; and the children of such widow and public officer shall thereupon, and in the case of the widow of a public officer who has married again and has ceased to receive a pension from the date of such marriage the children of such widow and public officer shall, from and after the coming into operation of this Ordinance, be entitled to pension as hereinbefore provided in the event of the death of both parents.

Provision in case of a widow and children of a previous marriage.

26 When a public officer dies leaving a widow and children the issue of a previous marriage existing when he became a contributor to the fund, or contracted after he became such contributor, and such children are of ages which entitled them to pensions from the fund, such children shall be entitled each of them to an equal share or portion of the half of the pension to which their mother, if she had survived their father, would have been entitled. The widow of such public officer shall be entitled to one-half of the pension to which she would have been entitled had there been no such children; and if the public officer dies leaving no such children, or when they cease to be entitled to pension, then she shall be entitled to the whole of such pension as she would have received had there been no such children. Should the widow die leaving no issue of her marriage with the public officer, the children of the first marriage shall be entitled to such pensions as if the public officer had not contracted such subsequent marriage. Should the widow die leaving children the issue of her marriage with the public officer, such children shall be entitled each to an equal share or portion of the pension to which their mother was entitled.

Pension to children of a widower.

27 The children of a widower who shall become or has become a contributor to the fund shall be entitled on his death, and the children of a widower who has contributed to the fund and has died prior to the coming into operation of this Ordinance, shall be entitled from and after the coming into operation of this Ordinance to the pension to which they would have been entitled if their mother had been living at the time of his becoming liable to contribute thereto.

Pension to be paid monthly, and proof of death to be produced before payment.

28 The pension payable to any person entitled thereto under this Ordinance shall begin upon the death of the public officer or of his widow, as the case may be, and shall accrue daily and shall be paid monthly. But before any such payment it shall be lawful for the directors to require proof that any widow or child is alive and entitled to the pension claimed by such widow or child.

Directors to appoint person to receive payment on behalf of minors.

29 In any case in which a minor is entitled to payment of a pension or portion of a pension under this Ordinance, it shall be lawful for the Directors to appoint some fit and proper person to whom such pension shall be paid. Such appointment shall be in writing under the hand of at least three of the directors, and the receipt of such person shall be a legal discharge for the payment of such pension or portion thereof.

Pensions not to be assigned or levied upon.

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

Questions and disputes to be decided by Governor in Executive Council.

31 Should any question arise as to whether any person is a public officer within the meaning of this Ordinance, or as to whether any person is entitled to any pension as the widow or child of a public officer, or as to the amount of pension to which any widow or child shall be entitled, or as to the meaning or construction to be assigned to any section of this Ordinance, or to any rule or regulation made under the provisions thereof, it shall be lawful for the directors, and such directors are required, upon the application of any

such public officer, widow, or child, to submit such question for decision to the Governor; and the decision of the Governor thereon, with the advice of the Executive Council, shall be final.

Widow not entitled to pension if marriage contracted after officer had ceased to contribute.

32 No widow of a public officer whose marriage was contracted after he had ceased to contribute and no child of such marriage shall be entitled to any pension.

Pension not to exceed amount fixed by the actuary.

33 The pension to which any widow, or in the event of the death of the widow to which the child or children of a public officer shall become entitled, shall in no case exceed three thousand rupees, or such larger sum as shall be fixed by the actuary or actuaries appointed under section 23 of this Ordinance, provided that no public officer shall be compelled to pay any contributions beyond such as would bring up the pension to which a widow or child or children might be entitled to such maximum amount.

No increase or decrease of pension if residing in climate less or more healthy than Ceylon.

34 No pension, whether payable to a widow or to a child or children, shall be increased or decreased by reason of the residence of the person entitled to such pension being less or more healthy as to climate than Ceylon.

One-half of bachelor's contribution to be returned on retirement.

35 Fifty per cent. of the contributions made by a bachelor shall be returned, but without interest, upon the retirement, unmarried, of such officer from the public service of this colony with or without pension.

By His Excellency's command,

E. NOEL WALKER,
Colonial Secretary.

Colonial Secretary's Office,
Colombo, December 4, 1897.