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EXTRAORDINARY

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PART I : SECTION (I) — GENERAL
Government Notifications

L.D.B. 21/78 (xvi)

THE UNIVERSITIES ACT, No. 16 OF 1978

ORDINANCE made by the University Grants Commission under section 18 read with section 97 of the Universities Act, No. 16 of 1978.

Secretary,
University Grants Commission.

Colombo,
15th December, 2020.

Ordinance

1. This Ordinance may be cited as the Universities Pension Fund Ordinance, No. 04 of 2020 and shall come into force upon publication in the *Gazette*.

2. The provisions of the Ordinance shall apply to the regulation, administration and management of the Universities Pension Fund (hereinafter referred to as “Pension Fund”) established under section 97 of the Act.



MEMBERSHIP OF THE PENSION FUND

3. (1) An employee of the staff of the Commission or of a Higher Educational Institution who holds a permanent post and in service as at 1st September 1999 may opt to contribute to and become a member of the Pension Fund, whereas membership shall be compulsory for the staff of the Commission or of a Higher Educational Institution who are appointed to a permanent post after 1st September 1999:

Provided however, the holder of a post (permanent) who does not have at least twenty years of service ahead to his age of retirement at the time of appointment to the said post shall not be entitled to become a member of the Pension Fund.

(2) An employee who was in service as at 1st September 1999 and who opted to become a member of the Pension Fund shall not be permitted to change his decision at a later date and request membership only in the Universities' Provident Fund.

(3) A monthly contribution as may be determined by the Commission shall be made from the salary of every member, to the Pension Fund.

ADMINISTRATION OF THE PENSION FUND

4. (1) The Secretary of the Commission (hereinafter referred to as the "Secretary") shall be in charge of the regulation, administration and management of the Pension Fund.

(2) The Secretary may, with the approval of the Commission, either generally or specially authorize any officer of the Commission to exercise, perform and discharge any power, duty or function of the Secretary under this Ordinance and such officer shall exercise, perform and discharge any such power, duty or function subject to the direction and control of the Secretary.

(3) The Secretary shall open and keep a general account for the Pension Fund and a separate account in respect of each member of the Pension Fund. All contributions to the Pension Fund in respect of that member shall be credited to a separate account of that member in the Pension Fund. The Secretary shall have the custody of moneys of the Pension Fund.

(4) The Supervisory Board functioning under the Provident Fund Ordinance No. 1 of 2015 established by Government *Gazette Extraordinary* No. 1906/8 of 17.03.2015 shall be responsible for reviewing the activities of the Pension Fund periodically and advising the Commission on policy matters of the Pension Fund.

5. (1) There shall be two Investment Committees to the Pension Fund, namely-

- (a) the Major Investment Committee to deal with the investments determined by the Commission as major investments;
- (b) the Minor Investment Committee to deal with the investments determined by the Commission as minor investments.

(2) The Major Investment Committee shall consist of the following members-

- (a) the Chairman of the Commission;
- (b) the Secretary;
- (c) the Head of the Finance Department of the Commission;
- (d) a representative from the Senior Management Committee appointed by the Chairman of the Commission.

(3) The Minor Investment Committee shall consist of the following members-

- (a) the Vice Chairman of the Commission;
- (b) the Secretary;
- (c) the Head of the Finance Department of the Commission.

(4) The financial limits of the major investments and minor investments shall be determined by the Commission from time to time, based on the investment policy of the Pension Fund formulated subject to the relevant rules, regulations and circulars issued by the General Treasury.

(5) The members of the Investment Committees shall be paid such allowances for attending any meeting of the Committees, as may be determined by the Commission. The sum of moneys paid as allowances and other expenditures of the Investment Committees shall be paid out of the moneys of the Pension Fund.

(6) The Investment Committee shall meet on a regular basis to evaluate the investment proposals and make suitable investment decisions or suitable investments in accordance with the investment policy of the Pension Fund.

(7) The decision taken by the Major Investment Committee shall be reported to the Supervisory Board once in every six months.

BENEFITS OF THE PENSION FUND

6. (1) (a) Every member, who-

- (a) has served twenty years or more and served till the age of retirement; or
- (b) served twenty years or more and retired due to ill health before the age of retirement;

shall be entitled for a monthly pension of a per centum specified in the corresponding entry in Column II of the Schedule.

(2) (a) The holder of any post other than that of a teacher who could retire at the age of fifty five but opt to continue to work till sixty years or retire in between shall be paid on pro-rata basis as decided by the Commission.

(b) Where contributions are not received for a period due to no pay leave or any other reason such period shall be reduced from the total service period for the calculation of the pension payable.

(3) Dependents of a member who has served twenty years or more at the time of death shall be paid a pension as follows:-

- (a) fifty per centum (50%) of the pension shall be paid to the widow or widower;
- (b) balance fifty per centum (50%) shall be equally divided and paid to the legitimate children until they reach 18 years of age:

Provided however, where there is a dispute with regard to the beneficiaries, pension shall be paid in accordance with the decision of the court.

(4) The pension payable to a member entitled thereto under this Ordinance shall begin upon the retirement of the member or upon the death of such member to the dependents and shall accrue daily and be paid monthly.

(5) The Secretary shall ensure that the pensioner or the dependent or dependents as the case may be, are alive and entitled to the pension claimed by such pensioner or the dependents.

(6) A pension payable to a minor under this Ordinance shall be credited to a minor's bank account in a government approved bank.

(7) The amount and interest lying to the credit of a member who retires, resigns or terminates prior to twenty years of service shall be refunded at the point of retirement, resignation or termination of service of the employee.

(8) In the event of the death of a member who has not completed twenty years of service or death of a member who is a bachelor or spinster, the amount and interest lying to the credit of such member shall be paid subject to the provisions of **Ordinance 7**.

NOMINATIONS

7. (1) A member may nominate a person to whom the money lying to the credit of the member's account in the Pension Fund shall be paid upon the death of such member. Where a member who wishes to make a nomination -

- (a) is married, he shall nominate jointly or severally his spouse and children;
- (b) is not married, he may nominate any person.

(2) A member who does not wish to make a nomination shall declare his intention by specifying in the list of nominees that he has no nominees. In such an instance the money shall be distributed in accordance with the applicable law of the country.

8. (1) A nomination shall not be valid or have any effect in law unless the same has been signed by the member in the presence of the Head of the Commission or Head of a Higher Educational Institution in which the member is employed and in the presence of another member who shall witness the signature of such member.

(2) Every such nomination shall be handed over by the member to the Commission or to the relevant Higher Educational Institution, as the case may be.

(3) Where a person is unable to sign, he shall in lieu of his signature, place his left thumb impression in the presence of the Head of the Commission or Head of a Higher Educational Institution in which the member is employed and another member who shall certify the nomination to the effect that such thumb impression is the thumb impression of the person who made such nomination.

(4) A nominee of any member shall not witness or certify the signature or the thumb impression of a member.

9. (1) Where more than one person is nominated, the member making the nomination may specify in the nomination the proportion in which, the benefits payable shall be shared by the respective nominees.

(2) Where more than one person is nominated and no direction in regard to the shares payable to the nominees has been given by the member in any nomination made by him, the benefits payable shall be paid to the persons so nominated in equal shares.

10. (1) A nomination shall be deemed revoked,

- (a) where there is one nominee, upon the death of the nominee;
- (b) where there is more than one nominee upon the death of anyone of them during the life time of the member who made such nomination; or
- (c) where a nomination is made by a member prior to his marriage, upon the marriage of such member.

(2) Where any nomination is made by the member is deemed revoked, the member who made the nomination may make a fresh nomination.

11. (1) A nominee of a member of the Pension Fund shall be entitled to receive payments from the Pension Fund, only -

- (a) if he has been nominated by the member within the period of contribution of such member to the Pension Fund; and
- (b) upon the death of the member.

(2) In the event of the nominee being a minor, at the time of death of the member, the payment due from the Pension Fund shall;

- (a) where there is no testamentary case relating to the estate of the deceased member, be deposited in a government approved bank, to the credit of such nominee subject to the provisions of the Act; or
- (b) where there is a testamentary case pending in respect of the estate of the deceased member be disposed in the manner specified by a court order.

(3) Where there is no valid nomination or where the nominee or nominees, as the case may be, are dead at the time of death of the member, payment shall be made to the legal heirs of the deceased member.

12. The nomination for the Pension Fund shall be applicable only when releasing the balance of the Pension Fund to the legal heirs in the event of death of a member without completing twenty years of service.

AUDIT AND ACCOUNTS

13. (1) The financial year of the Pension Fund shall be the same as the financial year of the Government.

(2) The accounts of the Pension Fund in respect of each financial year shall be audited by the Auditor-General and the cost of the audit shall be paid to him out of the Pension Fund.

(3) The Auditor-General or any officer of his department authorized by him to audit the accounts of the Pension Fund shall have access to all such books and documents as the Auditor-General or such officer may consider necessary for the purposes of the audit of such accounts, and shall be furnished by the Commission and the Secretary, along with such information within their knowledge or ascertainable by them as may be required for such purposes.

(4) The Auditor-General shall examine the accounts of the Pension Fund and submit to the Commission an annual report –

- (a) stating whether he has or has not obtained all the information required by him;
- (b) stating whether the accounts referred to in the report are properly drawn up so as to exhibit a true and fair view of the affairs of the Pension Fund; and
- (c) drawing attention to any item in such accounts, which in his opinion, may be of interest to Parliament in any examination of such accounts.

(5) The Commission shall appoint a professional Actuarial Consultant once in every three years or as approved by the Commission. The Commission shall reserve its right to amend the terms and conditions of the Pension Fund on the recommendations of the Actuarial Consultant in order to ensure the viability of the Pension Fund.

DECLARATION AND NOTIFICATION BY MEMBERS

14. Every employee of the Commission or Higher Educational Institution shall, within three months of the date of him becoming eligible to contribute to the Pension Fund, furnish following particulars to the Head of the Commission or Head of a Higher Educational Institution as the case may be :-

- (i) declarations made on the date of becoming a member of the Pension Fund;
- (ii) name in full and the date of birth;
- (iii) if married date of marriage;
- (iv) full name of the spouse including the maiden name (if applicable) ;
- (v) date of birth of spouse; and
- (vi) name in full and dates of birth of every child;

15. Every member shall, within three months of the date of his marriage, furnish a declaration to the Head of the Commission or Head of a Higher Educational Institution as the case may be, in the form provided for the purpose, setting forth the following particulars:-

- (i) the date of such marriage;
- (ii) full name of the spouse including the maiden name (if applicable) ;
- (iii) date of birth of spouse;
- (iv) date of birth of each child born after marriage; and
- (v) names and date of birth of each child or children born prior to marriage.

16. Every member shall within three months of the occurrence of followings, give notice to the Head of the Commission or Head of a Higher Educational Institution, as the case may be –

- (i) the date of change of civil status due to death of the spouse or any other reason;
- (ii) the date of birth or death of a child.

17. Where the Head of the Commission or Head of a Higher Educational Institution, as the case may be, is aware that the information specified in a declaration or notification is incorrect or incomplete, the Head of the Commission or Head of a Higher Educational Institution, shall by notice in writing require such member to make a further declaration giving the correct or complete information with adequate proof of all the particulars contained in such declaration or notification within the time specified in the notice. It shall be the duty of such member to comply with the requirement of every such notice.

18. Every pensioner shall prior to 31st January of each year submit to the Secretary of the Commission a declaration in the form as may be prescribed by the Commission stating the entitlement to receive a monthly pension from the Pension Fund. If any pensioner fails to submit the declaration prior to the due date, the monthly pension shall be suspended until the submission of such declaration.

GENERAL

19 (1). Notwithstanding anything in any written law other than the Ordinance, the money lying to the credit of a member in the Pension Fund shall not at any time be attached, sequestrated as surety against any loan, bond or agreement or any dues under the following circumstance: -

- (a) the quantum of any loss or damage sustained by the Commission or a Higher Educational Institution, by reason of the dishonesty or negligence of a member at any time during the period of his employment by Commission or Higher Educational Institution;
- (b) payments due on any loan taken by the member from the Commission, Higher Educational Institution or any other institute or person, as the case may be;
- (c) the dues under any bond, agreement or other instrument executed by the member;
- (d) execution of a decree or process of any court.

(2) The provisions of sub-ordinance (1) shall not be applicable to a member who does not complete twenty years of service or who retired, resigned or terminated prior to the age of retirement.

Provided however, where any amount is deducted from a member referred to in this sub-ordinance, the written consent of such member shall be obtained prior to the deducting of such amount specified by the circulars issued by the Commission from time to time, from the pension fund.

RESOLVING DISPUTES

20. Should any question arise as to -

- (a) whether any person is a member within the meaning of the Ordinance;
- (b) whether any person is entitled to any pension as the spouse or child of a member;

- (c) the amount of pension that any spouse or child of a member shall be entitled to;
- or
- (d) the meaning or construction to be assigned to any provision of the Ordinance, the Head of the Commission or Head of a Higher Educational Institution, shall on their own initiative, or at the written request of such member, spouse or children, shall submit such question for a decision to the Commission. The decision of the Commission thereon shall be final.

21. For the purpose of the Ordinance –

“Act” means the Universities Act, No. 16 of 1978;

“age of retirement” in relation to a member means, the age of retirement of the employee including the teacher as specified in the Act;

“Commission” means The University Grants Commission established under the Universities Act, No. 16 of 1978;

“Head” means, in relation to -

- (a) the Commission, the Chairman of the Commission;
- (b) a University or Open University, the Vice Chancellor;
- (c) a University College, Center or Institute for Higher Learning, the Director;
- (d) a Campus, the Rector;

“Higher Educational Institution” means a University, the Open University, a University College, a Campus and includes an Institute or a Center for Higher Learning established or deemed to be established under the Act;

“member” means any permanent employee of the Commission or of a Higher Educational Institution who is a contributor to the Pension Fund;

“pensioner” means any member of the Pension Fund who is entitled to obtain a monthly pension in terms of the Ordinance and who fulfills the following requirements :-

- (i) employees who have served uninterrupted and active service of twenty years or more till the age of retirement;
- (ii) employees who have served twenty years or more and retire due to ill health before the age of retirement;
- (iii) dependents of an employee who has served twenty years or more at the time of death;

“Pension Fund” means the fund established by the Commission utilizing part of the Provident Fund established under section 97 of the Universities Act, No. 16 of 1978 and University Grants Commission Circular No. 747 of 10th June 1999;

“Provident Fund” means the Provident Fund established by the Commission under Part XII of Universities Act, No. 16 of 1978;

“salary” means the emoluments of the substantive post or appointment held by any member and includes any such allowances as may by Commission Circulars be declared to constitute part of his salary;

“Secretary” means the Secretary of the University Grants Commission;and

“teacher” shall have the same meaning as in the Act and includes Librarian, Deputy Librarian, Senior Assistant Librarian and Assistant Librarian.

SCHEDULE

[ORDINANCE 6]

<i>Column I</i>	<i>Column II</i>
Age of Retirement	Percentage of the last drawn monthly salary which are approved by Government and Cabinet for each year of service
55	1.00%
56	1.04%
57	1.08%
58	1.12%
59	1.16%
60	1.20%
65 (Teachers only)	1.40%

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