

CHAPTER 615

COMPULSORY PUBLIC SERVICE

Acts
Nos.70 of 1961,
11 of 1979.

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

[29th December, 1961.]

Short title.

1. This Act may be cited as the Compulsory Public Service Act.

the requirements of paragraphs (a), (b) and (c) of section 32 (1) of that Ordinance.

Graduates to whom this Act applies.

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

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

[§2,11 of 1979.]

(a) becomes a graduate of any University established or deemed to be established under the Universities Act, or any other university established in Sri Lanka to which a grant is made by the Government other than a medical graduate of that university or of that other university; or

2A. (1) It shall be the duty of every medical graduate of any of the Universities established or deemed to be established under the Universities Act or any other university established in Sri Lanka to acquire the experience that is required to obtain from the Ceylon Medical Council a certificate under section 32 of the Medical Ordinance and for that purpose to engage in employment in a resident medical capacity for the period prescribed under that Ordinance in a hospital as may be required of him by the Director of Health Services on such terms and conditions as may be imposed by the Director.

Every medical graduate to acquire experience required to obtain a certificate under section 32 of the Medical Ordinance. [§ 3, 11 of 1979.]

[§2,11 of 1979.]

(b) becomes a graduate of any university outside Sri Lanka other than a medical graduate of that university and thereafter undergoes a course of technical training provided by or in any of the Universities established or deemed to be established under the Universities Act or any other university established in Sri Lanka; or

(2) A medical graduate who is engaged in employment in a resident medical capacity for the purpose of acquiring the experience required to obtain the certificate under section 32 of the Medical Ordinance (such graduate hereafter referred to in this Act as an "intern medical officer") shall not leave that employment during the period of that employment.

[§2,11 of 1979.]

(c) being a medical graduate of any of the Universities established or deemed to be established under the Universities Act or any other university established in Sri Lanka thereafter becomes a medical practitioner within the meaning of the Medical Ordinance or satisfies

2B. Every medical graduate who in the discharge of the obligation imposed on him by section 2A refuses to engage in employment as an intern medical officer when so required by the Director of Health

Failure to discharge obligation under section 2A an offence. [§ 4, 11 of 1979.]

Services or while being engaged in employment as an intern medical officer by the Director of Health Services fails to serve in the capacity for the period for which he is so engaged shall, unless he is declared to be medically unfit to be engaged in that employment or serve in that capacity after a duly conducted medical examination, be guilty of an offence and shall be liable to a fine not exceeding one hundred and fifty rupees for every day during which such refusal or failure continues.

(IA) Every appointment of a graduate subject to compulsory public service to an appropriate office in the public service shall be published in the Gazette within a prescribed period by the authority making that appointment and the appointment shall be deemed to take effect from the date specified therein as the date of his appointment. [§5,11 of 1979.]

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

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.

(2) A graduate on whom an obligation is imposed by subsection (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.

(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.

(3) A graduate who, while he is discharging the obligation imposed on him by subsection (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 Sri Lanka 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.

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 subsection (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.

(4) A graduate on whom an obligation is imposed by subsection (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 Sri Lanka 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 subsection shall not be

deemed or construed to affect or prejudice the operation of the provisions of subsection (3) of this section.

(5) Any graduate who fails to discharge the obligation imposed on him by subsection (1) or subsection (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.

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

5. (1) The Head of any of the Universities established or deemed to be established under the Universities Act, or any other prescribed University established in Sri Lanka 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 subsection (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 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 subsection (1) or subsection (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 subsection (1) or subsection (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 subsection (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 subsection (1) of this section.

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

(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 subsection (2) of this section, be as valid and effectual as if it were herein enacted.

8. All offences under this Act may be tried summarily by a Magistrate. Offences under the 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, &c., of the Cabinet of Ministers or 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 Cabinet of Ministers or 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 Constitution of the Democratic
Socialist Republic of Sri Lanka, 1978..

Offences under
this Act
committed by
a body of
persons.

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

(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.

Interpretation.

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

" 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 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 under the
Republic of Sri Lanka, but does not
include the persons referred to in
paragraphs (a) to (j) of the

definition of the expression " public officer" occurring in Article 170 of the Constitution of the Democratic Socialist Republic of Sri Lanka, 1978; 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 in the Gazette in which such appointment is published 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 or in the Gazette in which the appointment is published (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 a date is not 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.

[§ 6, 11 of 1979.]