

CHAPTER 592

LOCAL GOVERNMENT SERVICE

Law No. 16 of 1974. Act No. 36 of 1980.

A LAW TO PROVIDE FOR THE CONSTITUTION AND REGULATION OF A LOCAL GOVERNMENT SERVICE, TO PROVIDE FOR THE ESTABLISHMENT OF A LOCAL GOVERNMENT SERVICE ADVISORY BOARD AND A LOCAL GOVERNMENT SERVICE DISCIPLINARY BOARD; TO SPECIFY THE POWERS, DUTIES AND FUNCTIONS OF SUCH BOARDS. TO ESTABLISH A DEPARTMENT OF LOCAL GOVERNMENT SERVICE; TO PROVIDE FOR THE REPEAL OF THE LOCAL GOVERNMENT SERVICE ACT, NO. 18 OF 1969, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[23rd May, 1974.]

Short title.

1. This Law may be cited as the Local Government Service Law.

PART II

LOCAL GOVERNMENT SERVICE ADVISORY BOARD

PART I

LOCAL GOVERNMENT SERVICE

Constitution of Local Government Service and provisions relating to members of that service.

2. (1) A service to be called and known as the Local Government Service (hereinafter referred to as "the service") is hereby constituted.

(2) The service shall consist of all monthly paid officers and servants of Municipal Councils, Urban Councils, Town Councils and Village Councils other than the officers and servants whose posts are specified in the Schedule hereto.

(3) Every person who was, on the day immediately preceding the 23rd day of May, 1974, a member of the Local Government Service constituted by the repealed Act shall, with effect from such date, be deemed to be a member of the service constituted under this Law.

(4) Every member of the service shall be deemed to be a public servant within the meaning and for the purposes of the Penal Code.

(5) Every member of the service shall be deemed to be a public servant within the meaning and for the purposes of the Public Servants (Liabilities) Ordinance.

3. (1) There shall be established a Local Government Service Advisory Board (hereinafter referred to as the "Advisory Board") to exercise, perform or discharge such powers, functions or duties as may be required of such Board under this Law.

Establishment of the Local Government Service Advisory Board,

(2) The Advisory Board shall consist of three members appointed by the Minister, one of whom shall be designated Chairman.

(3) No person shall be qualified for being appointed or for continuing as a member of the Advisory Board, if he is—

a Member of Parliament • or

(a) a member of any local authority ; or

(c) a member of the Local Government Service Disciplinary Board ; or

(d) a member of the Local Government Service.

(4) Every member of the Advisory Board shall, subject to the provisions of subsection (5), hold office for a period of four years from the date of his appointment.

(5) The office of a member of the Advisory Board shall become vacant—

(a) on such member resigning office by a written notice addressed to the Minister; or

PART III

LOCAL GOVERNMENT SERVICE
DISCIPLINARY BOARD

- (b) on such member being removed from office by the Minister; or
- (c) upon the death of such member.

(6) Where any member of the Advisory Board dies or resigns or is removed from office, the Minister shall appoint another person in place of such member, and the person so appointed shall, unless he vacates office earlier, hold office during the unexpired period of the term of office of such member.

(7) Where any member of the Advisory Board is temporarily unable to perform the duties of his office by reason of illness or other infirmity, or absence from Sri Lanka, the Minister may appoint any other person to act in place of such member.

(8) The members of the Advisory Board may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance ; such remuneration shall be charged on the Consolidated Fund and shall not be diminished during their terms of office.

(9) There shall be a Secretary of the Advisory Board who shall be a member of the Sri Lanka Administrative Service or a member of the service. The other members of the staff of the Advisory Board shall be appointed from the transferable services of the State or from members of the service.

(10) The Minister may, without assigning any reason, remove the Chairman or any other member of the Advisory Board from office. Such removal shall be final and conclusive and shall not be questioned in any court.

(11) The Chairman shall preside at all meetings of the Advisory Board at which he is present. In the absence of the Chairman from any meeting of the Advisory Board any member chosen by those present may preside thereat.

(12) The Advisory Board may regulate its own procedure in any matter not provided for in this Law or any regulation made thereunder.

4. (1) There shall be established a Local Government Service Disciplinary Board (hereinafter referred to as the "Disciplinary Board ") to exercise, perform or discharge such powers, functions or duties as may be required of such Board under this Law. Establishment of the local Government Service Disciplinary Board,

(2) The Disciplinary Board shall consist of three members appointed by the Minister, one of whom shall be designated Chairman.

(3) No person shall be qualified for being appointed or for continuing as a member of the Disciplinary Board, if he is—

- (a) a Member of Parliament; or
- (b) a member of any local authority; or
- (c) a member of the Local Government Service Advisory Board ; or
- (d) a member of the Local Government Service.

(4) Every member of the Disciplinary Board shall, subject to the provisions of subsection (5), hold office for a period of four years from the date of his appointment.

(5) The office of a member of the Disciplinary Board shall become vacant—

- (a) on such member resigning office by a written notice addressed to the Minister; or
- (b) on such member being removed from office by the Minister; or
- (c) upon the death of such member.

(6) Where any member of the Disciplinary Board dies or resigns or is removed from office, the Minister shall appoint another person in place of such member and the person so appointed shall hold office, unless he vacates office earlier, during the unexpired period of the term of office of such member.

(7) Where any member of the Disciplinary Board is temporarily unable to perform the duties of his office by reason of illness or other infirmity, or absence from Sri Lanka, the Minister may appoint any other person to act in place of such member.

(8) The members of the Disciplinary Board may be paid such remuneration as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance ; such remuneration shall be charged on the Consolidated Fund and shall not be diminished during their terms of office.

(9) There shall be a Secretary of the Disciplinary Board who shall be a member of the Sri Lanka Administrative Service or a member of the service. The other members of the staff of the Disciplinary Board shall be appointed from the transferable services of the State or from members of the service.

(10) The Minister may, without assigning any reason, remove the Chairman or any other member of the Disciplinary Board from office. Such removal shall be final and conclusive and shall not be questioned in any court.

(11) The Chairman shall preside at all meetings of the Disciplinary Board at which he is present and in the absence of the Chairman from any meeting of the Disciplinary Board any member chosen by those present may preside thereat.

(12) The Disciplinary Board may regulate its own procedure on any matter not provided for in this Law or any regulation made thereunder.

5. The Disciplinary Board shall for the purposes of performing its functions under this Law, have all the powers of a District Court—

- (a) to summon and to compel the attendance of witnesses;
- (b) to compel the production of documents; and
- (c) to administer any oath or affirmation to any witnesses.

PART IV

APPOINTMENT, DISMISSAL, DISCIPLINARY CONTROL, &c., OF MEMBERS OF THE SERVICE

6. (1) Subject as hereinafter provided, the Minister shall be responsible for and have the powers of appointment, transfer, dismissal and disciplinary control of members of the service.

Powers of the Minister relating to appointment, dismissal, disciplinary control, &c., of members of the service.

(2) The Minister shall provide for and determine all matters relating to members of the service including the formulation of schemes of recruitment, payments and remuneration and codes of conduct for members of the service, the procedure for the exercise and delegation of the powers of appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service.

(3) The Minister may, notwithstanding any delegation of powers as is referred to in this Law, exercise the powers of appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service.

(4) No institution administering justice or any other institution, person or authority shall have the power or jurisdiction to inquire into, pronounce upon or in any manner call in question any recommendation, order or decision of the Cabinet of Ministers, the Minister, the Local Government Service Advisory Board, the Local Government Service Disciplinary Board, a public officer or a member of the service regarding any matter concerning the appointment, transfer, release, retirement, abolition of posts, dismissal or disciplinary control of the members of the service.

7. The Minister may delegate to any public officer by designation his power of appointment in respect of any post in the service which carries an initial consolidated salary of less than Rs- 6,720 per annum.

Minister may delegate his powers.

8. (1) The Minister or the public officer so delegated shall not exercise his power of appointment of members of the service unless he has received the

Recommendations of the Advisory Board.

Powers of the Disciplinary Board.

recommendation of the Advisory Board in respect of the appointment to be made by him.

(2) It shall be the duty of the Advisory Board when so requested in respect of any appointment, to furnish the Minister or the public officer, as the case may be, its recommendation in respect of such appointment.

Dismissal and disciplinary control by Minister.

9. The Minister shall not exercise his power of dismissal or disciplinary control of members of the service unless he has received the recommendation of the Disciplinary Board;

Provided, however, that the Minister shall not exercise his power of dismissal of members of the service whose consolidated salary is not less than Rs. 14,400 per annum unless he has received the approval of the Cabinet of Ministers.

Dismissal and disciplinary control by public officers.

10. (1) The Minister may delegate to any state officer by designation the power of dismissal or disciplinary control of members of the service whose consolidated salary does not exceed Rs. 6,720 per annum.

(2) A public officer to whom the Minister has delegated his power of dismissal or disciplinary control under subsection (1) shall not exercise such power without receiving the recommendation of the Disciplinary Board.

Appeals.

11. (1) Any member of the service aggrieved by an order of dismissal under this Law shall, subject to such procedure as may be determined by the Minister, have the right to make a single appeal against such order of dismissal to the Minister who shall have the power to confirm or vary in any manner, such order of dismissal.

(2) No order of dismissal made with the approval of the Cabinet of Ministers shall be varied except with the concurrence of the Cabinet of Ministers.

Delegation of powers relating to release, transfer, &c.

12. The Minister may delegate to any public officer by designation his powers relating to the release, transfer, retirement and abolition of posts of members of the service.

12A. (1) Notwithstanding the provisions of sections 6 to 12 (both inclusive) of this Law, where the Minister is of opinion that reference from or to the Advisory Board or the Disciplinary Board, as the case may be, is likely to delay or restrict in any manner the administration of Local Government affairs, the Minister may, subject to the approval of the Cabinet of Ministers—

Delegation and exercise of powers of appointment, &c., in certain circumstances. [§ 2,36 of 1980.]

(a) exercise his powers of appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service without reference from or to the Advisory Board or the Disciplinary Board, as the case may be; or

(b) delegate by Order published in the Gazette to any public officer by designation all or any of such powers in respect of all or any of the categories of members of the service, and in every case such public officer shall exercise any such power without reference from or to the Advisory Board or the Disciplinary Board, as the case may be;

Provided, however, that any such power so delegated shall be exercised by such public officer subject to the approval of the Cabinet of Ministers.

(2) Any Order made and published under subsection (1) shall remain in force until revoked by the Minister.

PART V

GENERAL

13. There shall be established a Department of Local Government Service.

A Department of Local Government Service to be established.

14. (1) There shall be appointed a person to be or to act as the Director of Local Government Service to perform any duty or function imposed on him under this

Appointment of Director of Local Government Service.

Law or delegated or assigned to him by the Minister by Order published in the Gazette. The person appointed to be or to act as the Director of Local Government Service shall be a member of the Sri Lanka Administrative Service.

(2) There may be appointed such number of Deputy Directors, Assistant Directors and other officers and servants as may be necessary to carry out the functions and duties imposed on the Director of Local Government Service by this Law or delegated or assigned to him by the Minister.

Establishment of Pension Fund.

15. (1) There shall be established a Fund to be known as the Local Government Service Pension Fund for the payment of pensions and gratuities to the pensionable members of the service.

(2) The Local Government Service Pension Fund established under the repealed Act shall be deemed to be the Local Government Service Pension Fund established under this section.

Establishment of Widows' and Orphans' Pension Fund.

16. (1) There shall be established a Fund to be known as the Local Government Service Widows' and Orphans' Pension Fund for the payment of pensions to the widows and children of the pensionable members of the service.

(2) The Widows' and Orphans' Pension Fund established under the repealed Act shall be deemed to be the Local Government Service Widows' and Orphans' Pension Fund established under this section.

Establishment of Provident Fund.

17. (1) There shall be established a Fund to be known as the Local Government Service Provident Fund for the grant of benefits to non-pensionable members of the service.

(2) The Local Government Service Provident Fund established under the repealed Act shall be deemed to be the Local Government Service Provident Fund established under this section.

Administration of Funds.

18. From the 23rd day of May, 1974, the administration of each of the Funds established under sections 15, 16 and 17

shall be transferred to the Director of Local Government Service or any other public officer appointed by the Minister for that purpose.

19. (1) Every local authority shall cause and permit every person who is appointed or transferred under this Law to any post in the service of that authority to perform and discharge the functions and duties of that post and shall, out of its funds, pay the salary and allowances of each such person.

(2) On or after the 23rd day of May, 1974, no post in any local authority other than a post specified in the Schedule hereto shall, notwithstanding anything in any other written law, be abolished by such local authority except with the approval in writing of the Minister.

20. The payment of any sum by a local authority by way of contribution to the Local Government Service Pension Fund or the Local Government Service Widows' and Orphans' Pension Fund or the Local Government Service Provident Fund under this Law shall be deemed to be a purpose for which the funds at the disposal of the local authority may be expended under the written law relating to the powers of that local authority, and such sum may, in the case of a local authority which has defaulted in the payment of any sum to any of the aforesaid funds, be deducted from any moneys payable by the Government to such local authority.

21. The Minister may, where he considers it necessary in the interests of the service, by regulation, amend or vary the Schedule to this Law and may, from time to time, replace that Schedule by a new Schedule incorporating all amendments or variations made therein under the preceding provisions of this section.

22. If, in first giving effect to the provisions of this Law, any doubt or difficulty arises in respect of any matter or question for which no provision or no effective provision is made by this Law, the Minister may, by Order published in the Gazette, remove or determine such doubt or difficulty.

Appointments, transfers, salaries and abolition of posts.

Contributions by local authorities to the Local Government Service Pension Fund, the Local Government Service Widows' and Orphans' Pension Fund and the Local Government Service Provident Fund.

Amendment and replacement of Schedule.

Removal of difficulties.

Power to make regulations, **23.** (I) The Minister may, from time to time, make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Law.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters:—

- (a) the appointment, transfer, release, retirement, abolition of posts, dismissal and disciplinary control of members of the service;
- (b) the administration, regulation, supervision and control of each of the Funds referred to in sections 15, 16 and 17;
- (c) the conditions and circumstances in which, and the restrictions subject to which, the members of the service will be eligible for the grant of pensions and gratuities under the Local Government Service Pension Fund established under section 15, and the payments to be made to such members under such Pension Fund;
- (d) the conditions and circumstances in which, and the restrictions subject to which, widows and children of members of the service will be eligible for the grant of pensions under the Local Government Service Widows' and Orphans' Pension Fund established under section 16, the fixing of the contributions to be made to such Fund by the authority administering such Fund, and by members of the service, the payments to be made from such Fund to such widows and children, the authorizing of contributions of such members to be deducted from their salaries, and the procedure for making such deductions;
- (e) the procedure for making deductions from the salaries of contributors to

the Local Government Service Provident Fund established under section 17;

(f) all matters in respect of which regulations are required to be made.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the Gazette.

24. (1) The Local Government Service Act, No. 18 of 1969, is hereby repealed. Repeal.

(2) Notwithstanding the repeal of the aforesaid Act—

- (a) every regulation or rule made under the Local Government Service Ordinance, No. 43 of 1945,* and the repealed Act, and in force on the day immediately preceding the 23rd day of May, 1974, shall, in so far as it is not inconsistent with the provisions of this Law, be deemed to be a regulation made under this Law and have effect accordingly and may be amended, varied or rescinded by regulation made under this Law;
- (b) any inquiry or other matter, which on the day immediately preceding the 23rd day of May, 1974, was pending before the Local Government Service Commission established under the repealed Act, may be continued, heard and

* Repealed and replaced by Act No. 18 of 1969, itself repealed and replaced by Law No. 16 of 1974.

determined by the Director of Local Government Service unless the Minister directs otherwise;

the service includes promotion of such members;

- (c) the provisions of subsection (2) of section 55 and section 58 of the Local Government Service Ordinance, No. 43 of 1945,* kept in force by the repealed Act shall remain in force.

" local authority" means any Municipal Council, Urban Council, Town Council or Village Council;

" Minister " means the Minister in charge of the subject of Local Government; and

Interpretation. **25.** In this Law, unless the context otherwise requires—

" appointment" in relation to members of

" repealed Act" means the Local Government Service Act, No. 18 of 1969.

[Sections 2 and 19-]

SCHEDULE

1. Every post of a temporary or casual nature in any local authority.
2. Every post in a Municipal Council if the maximum of the salary scale assigned to that post does not exceed Rs. 4,000 (consolidated) per annum.
3. Every post in an Urban Council if the maximum of the salary scale assigned to that post does not exceed Rs. 3,500 (consolidated) per annum.
4. Every post in a Town Council or a Village Council if the maximum of the salary scale assigned to that post does not exceed Rs. 3,000 (consolidated) per annum.

" Repealed and replaced by Act No. 18 of 1969, itself repealed and replaced by Law No. 16 of 1974.