



**PARLIAMENT OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF  
SRI LANKA**

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**OVERSEAS EMPLOYEES' PENSION BENEFITS FUND**

**A**

**BILL**

**to establish an Overseas Employees' Pension Benefits Fund to provide  
pension benefits to certain employees who become eligible to such pension  
in terms of this Act; and to provide for matters connected therewith or  
incidental thereto**

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*Presented by the Prime Minister and Minister of Buddha Sasana and  
Religious Affairs on 08th April, 2011*

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**[Bill No. 99]**

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## Overseas Employees' Pension Benefits Fund

L.D.—O 25/2011

AN ACT TO ESTABLISH AN OVERSEAS EMPLOYEES' PENSION BENEFITS FUND TO PROVIDE PENSION BENEFITS TO CERTAIN EMPLOYEES WHO BECOME ELIGIBLE TO SUCH PENSION IN TERMS OF THIS ACT; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

<p><b>1.</b> This Act may be cited as the Overseas Employees' Pension Benefits Fund Act, No. _____ of 2011.</p>	<p>Short title and date of operation.</p>
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## 5 PART I

## ESTABLISHMENT OF THE OVERSEAS EMPLOYEES' PENSION BENEFITS FUND AND ADMINISTRATION OF THE FUND

<p>2. For the purpose of this Act there shall be established a fund called the Overseas Employees' Pension Benefits 10 Fund (hereinafter in this Act referred to as "the Fund").</p>	<p>Establishment of Employees' Pension Benefits Fund.</p>
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3. (1) An employee shall become a member of the Fund at the time such employee first becomes liable under section 10 to pay contributions to the Fund, and shall continue to be a member of the Fund for so long as there remains to his credit, any sum of money in his individual account in the Fund.

(2) Neither a member of the Fund nor any person claiming under him shall have any interest in, or claim to, the moneys of the Fund otherwise than by virtue of any provision of this Act or of any regulation.

4. (1) Except as otherwise provided for in this Act, the Chairman of the Sri Lanka Foreign employment Bureau, shall be in charge of the general administration of this Act.

(2) Subject to any general or special directions of the Chairman Sri Lanka Foreign Employment Bureau or any officer of the Sri Lanka Foreign Employment Bureau authorized by the Chairman in that behalf, may exercise,  
 5 perform or discharge any power, duty or function of the Commissioner, under this Act or any regulation framed under this Act.

(3) There may be appointed such number of officers, including District Secretaries, Divisional Secretaries and  
 10 Grama Niladharis as may be required for the purpose of carrying out or giving effect to the provisions of this Act.

(4) The Chairman may either generally or specifically authorize any officer under subsection (3) of this section to exercise, perform or discharge any power, duty or function  
 15 of the Chairman under this Act or under any regulation.

**5. (1) The Monetary Board—**

Powers and duties of the Monetary Board in relation to the Fund.

(a) may appoint such officers and servants as may be required by the Board for exercising its powers, performing its duties and discharging its functions  
 20 under this Act, fix the salaries and wages of such officers and servants and determine their conditions of service;

(b) shall receive all sums paid under this Act as contributions, surcharges and fees, and the income  
 25 from the investment of moneys of the Fund and shall credit such sums and income to the Fund;

(c) shall have custody of the moneys of the Fund;

(d) shall pay to the persons certified by the Chairman the benefits to which those persons are entitled  
 30 under this Act;

- 5           (e) may invest such of the moneys of the Fund as are not immediately required for the purposes of this Act, in such securities as the Board may consider fit, while ensuring that not less than two thirds of such monies are invested in Government Securities;
- (f) shall maintain a general account in respect of the Fund, and a separate account (in this Act referred to as an individual account) in respect of each member of the Fund;
- 10          (g) shall maintain and operate a Suspense Account for the matters specified in section 6;
- (h) shall cause the books of accounts relating to the Fund to be balanced as on the thirty-first day of December in each year;
- 15          (i) shall cause to be prepared in respect of the Fund for each year a statement of receipts and payments, a statement of assets and liabilities, a statement of income and expenditure, a statement of investment showing the face value, purchase price, and market
- 20          value of each of the investments;
- (j) shall transmit to the Minister a copy of each of the statements prepared under the preceding paragraph (j) for each year within three months after the thirty-first day of December of that year;
- 25          (k) shall notify each member of the Fund within six months after the thirty-first day of December in each year, of the amount lying as a positive or negative balance of the individual account of such member on that day;
- 30          (l) shall, deduct from the income from the investment of moneys of the fund, the expense incurred by the Board and the Chairman in carrying out their respect functions under this Act;

4      *Overseas Employees' Pension Benefits Fund*

(m) may establish such reserves out of the income of the Fund as the Monetary Board may determine, to meet any contingencies or any depreciation in the market value of the assets of the Fund;

5      (n) shall have such other powers and duties in connection with the Fund as may be conferred or imposed on such Board, by Order published in the *Gazette*, by the Minister with the concurrence of the Minister in charge of the subject of Finance.

10      (2) Every officer or servant appointed under paragraph (a) of subsection (1) shall be deemed to be employed for the performance of duties under the Monetary Law Act, for the purpose of application of the provisions of the said Act relating to officers and servants.

15      (3) For the purposes of paragraph (m) of subsection (1) "expenses" shall include –

(i) any loss of moneys on account of theft, misappropriation or overpayment;

20      (ii) any loss of articles, being furniture, office equipment or stationary used in or purchased for the administration of the Fund, the cost of which cannot be recovered from the persons responsible for such loss; and

25      (iii) the value of any articles, being stationery, furniture or office equipment which are not usable or which are not functioning and are incapable of being repaired.

30      6. (1) There shall be credited to the Suspense Account maintained and operated by the Monetary Board all contributions received under this Act in respect of which the returns furnished are deficient or incorrect and the moneys cannot be credited to individual accounts-

Suspense  
Account of  
Monetary  
Board.

(2) Any moneys as are specified above which are held in an Account maintained by the Fund shall be transferred by the Monetary Board to the Suspense Account.

(3) Where any moneys are transferred from the Suspense Account to an individual account as provided for in this paragraph, interest shall be paid on the sum, for the period from the date of receipt of such moneys to the date of transfer of such moneys to the individual account, for a period not exceeding six years prior to the date of such transfer, and the rate of interest shall be the rate determined in terms of subsection (1) of section 13 of the Act, and applicable for the year in respect of which the interest is paid;

7. (1) The accounts of the Fund in respect of each year shall be audited by the Auditor General and the cost of the audit shall be paid to be him out of the Fund. All payments made to the Auditor - General under this subsection shall be credited to the Consolidated Fund.

Auditor General to audit the accounts of the Fund, &c.,

(2) The Auditor-General or any officer of his department authorized by him to audit the accounts of the 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 Monetary Board and the Commissioner with such information within their knowledge or ascertainable by them, as may be required for such purposes.

(3) The Auditor-General shall examine the accounts of the Fund and submit to the Minister annually a 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 an accurate and justifiable analysis of the affairs of the moneys lying to the credit 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.

(4) Such report shall not disclose the name of any member  
5 of the Fund.

(5) The Minister shall lay before Parliament a copy of the Auditor-General's report submitted to the Minister under subsection (3) of this section and copies of the statements transmitted to the Minister by the Monetary Board under  
10 paragraph (k) of subsection (1) of section 5.

**8.** Every sum paid out of the Consolidated Fund— Repayments  
to  
Government.

(a) to the Chairman prior to the date of enactment of this Act, for defraying the expenditure incurred in making preliminary arrangements for the  
15 establishment of the Fund;

(b) to the Monetary Board, for defraying all expenditure, including capital expenditure incurred by such Board and the Chairman in implementing the provisions of this Act during the period  
20 commencing on the date of enactment of this Act and ending on the date of the coming into operation of this Act,

shall constitute a loan from the Government to the Monetary Board and shall be repaid in accordance with such terms and  
25 conditions as may be determined by the Minister with the concurrence of the Minister in charge of the subject of Finance.

**9.** The expenses incurred by the Chairman and the Monetary Board in carrying out the provisions of this Act shall be charged on the income from the investment of the  
30 moneys of the Fund. Provided, however that the expenses out of the provisions of Part IV of this Act shall be paid out of the income from the investment of moneys of the Fund. Expenses  
incurred in  
the  
administration  
of the Act.

## PART II

### EMPLOYEES TO WHOM THIS ACT APPLIES, COVERED EMPLOYMENTS AND CONTRIBUTIONS

5 **10.** Any person who is engaged in an overseas employment who is not covered under the Government Pension Minutes or any Pension Fund approved by the Commissioner of Labour may, if they so desire, become a member of the fund established in terms of section 2 and all employees who become members shall be persons to whom  
10 this Act applies.

Employees to whom this Act applies.

**11.** (1) An employee to whom this Act applies shall, during the term within which such employee is engaged in an overseas employment, may opt to join the Fund by paying a contribution of an amount not less than twelve thousand  
15 rupees annually for a minimum of two consecutive years (for the purpose of this section 'year' shall mean any twelve consecutive calendar months). Such minimum contribution may be made in one or more installments as may be decided by the employee. An employee shall have to make the  
20 minimum contribution prior to such employee reaching the age of fifty -five years.

Contributions.

(2) The fund shall comprise –

(a) a sum of rupees one thousand million as the initial capital to be allocated by the Government from the  
25 Consolidated Fund;

(b) the monies lying to the credit of the Fund established under the Foreign Employment Bureau of Sri Lanka, as at April 1, 2011 shall be transferred to the Fund.

30 **12.** (1) The liability of an employee and the Chairman of Labour or such other authority, to pay contributions under section 10 shall commence on the day immediately after the date fixed in relation to such employment by the Minister by Order published in the  
35 *Gazette*.

Commencement of liability to pay contributions.



(2) An employee in an overseas employment may commence to make contributions under this section any time after the date of operation of this Act subject to the provisions stipulated in section 10 hereof.

5     **13.** (1) An annual interest rate, not less than two point Interest on  
 five *per centum*, as may be annually fixed by the Monetary contributions  
 Board with the concurrence of the Minister in charge of the &c.,  
 subject of Finance, shall be credited to the individual  
 accounts on a monthly basis, out of the income from the  
 10 investment of the moneys of the Fund, on the amount standing  
 to the credit of the individual account of each member of the  
 Fund;

(2) Where the income from the investment of the moneys  
 of the Fund is inadequate to pay any part of the interest  
 15 payable on contributions paid to the Fund under this Act,  
 the amount of the deficit shall be met out of the moneys  
 provided by Parliament for the purpose.

(3) Any sum provided by Parliament under subsection  
 (2) of this section shall constitute a loan from the  
 20 Government to the Monetary Board and shall be repaid in  
 accordance with such terms and conditions as may be  
 determined by the Minister with the concurrence of the  
 Minister in charge of the subject of Finance.

(4) The Fund shall be deemed to be a Pension fund  
 25 approved by the Commissioner – General of Labour for the  
 purposes of the Inland Revenue Act, No.10 of 2006.

**14.** (1) Any moneys due to the Fund shall be recoverable, Recovery of  
 as a debt due to the State, by an action in which proceedings contributions.  
 may be taken by way of summary procedure. The provisions  
 30 of the Civil Procedure Code relating to actions of which the  
 procedure is summary shall apply to an action under this  
 section , and, for the purposes only of the application of

such provisions to such action, section 8 of that Code shall have effect as if, for the words "by this Ordinance" occurring in that section, there were substituted the words "by this Ordinance or by any other written law".

5 (2) Proceedings for the recovery of any moneys due to the Fund may be instituted by the Chairman or any officer authorized in that behalf by him, and the Chairman or such officer may, notwithstanding anything to the contrary in any other written law conduct such  
10 proceedings.

(3) The provisions of the Prescription Ordinance shall not apply to the recovery of any sums payable as contributions or surcharges under this Act.

15 **15.** The contributions of a member of the Fund and of his employer in respect of him and the interest on such contribution shall be credited by the Monetary Board to the individual account of such member. The sums to be credited to the individual accounts of members.

20 **16.** Every assignment of, or charge on, any sum to the credit of the individual account of a member of the Fund and every agreement to assign or charge any such sum shall be void, and, where that member is adjudged insolvent by a competent court, any such sum shall not pass to any assignee acting on behalf of that member's creditors notwithstanding the provisions of the Insolvency Ordinance. Money to the credit of individual accounts to be inalienable.

25 **PART III**

**PENSION**

30 **17.** (1) Save as hereinafter provided in this section and subject to the contributions made in terms of section 10, a member of the Fund shall be paid a monthly pension upon such member attaining the age of sixty five (65) years. Time at which pension will be paid.

(2) The Chairman shall require the respective District Secretary, Divisional Secretary or the Grama Niladahari to confirm at least annually, that a person to whom this Act applies and who is a member of the Fund, is alive. In respect  
5 of those members who are residing outside Sri Lanka, the verification shall be done through the Sri Lankan Missions based in the respective countries or in the absence through the available diplomatic channels. Action shall be taken to strike off the name of any member reported to be dead.

- 10 **18.** (1) Where a member of the fund dies- Powers to whom a lump sum shall be paid in certain circumstances.
- (a) before receiving a Pension having contributed as required in terms of this Act; or
- (b) before receiving a Pension, without having completed making the contribution as required  
15 under this Act;

leaving a child below eighteen years of age or a child who is certified by a registered medical practitioner to be physically or mentally disabled, and who therefore is unfit to earn a living on their own, a lump sum equivalent to sixty *percent*  
20 of the amount lying to the credit of the member's individual account shall be paid to such dependent. If there is more than one dependent, such amount will be divided among the dependents in equal shares.

(2) Where a member of the fund ceases to be employed by  
25 reason of a permanent incapacity to work and is certified by a registered medical practitioner to be unfit for work for that reason, and such member has not completed making the contributions as required under this Act, a sum equivalent to sixty *percent* of the amount lying to the credit of the  
30 member's individual account shall be paid to such member.

**19.** It shall be a condition of any person's right to a pension under this Act that he or any person on his behalf in instances so permitted under this Act shall make a claim thereto in the prescribed manner. Claim to receive a pension.

## PART IV

### DETERMINATION OF CLAIMS

20. All claims to pensions shall be determined by the Chairman or by any officer authorized in that behalf by him  
5 and the determination of the Chairman or such officer based on the balance available in such member's individual account shall, subject to any decision on an appeal made against such determination in accordance with the provisions of this Act, be final:

Chairman or  
an officer  
authorized  
by the  
Chairman to  
determine  
claims.

10 Provided that any determination made by any officer under this section may within the prescribed period be reviewed by the Chairman on his own motion; and in such case the determination of the Chairman shall be deemed,  
15 for the purposes of section 27 to be the determination in that case.

21. (1) Any person aggrieved by any determination made under section 20 may appeal from such determination to an Appeal Tribunal (hereinafter in this Act referred to as "the Tribunal") constituted in the prescribed manner, and  
20 the decision of the Tribunal on such appeal shall, subject to any Order which the Court of Appeal may make on appeal made from such decision in accordance with the provisions of subsection (2) of this section, be final.

Appeals.

(2) Where the Chairman or any party to an appeal made  
25 to the Tribunal is dissatisfied with the decision of the Tribunal on such appeal, the Chairman or that party may by written petition in which every other party to the appeal is mentioned as a respondent, appeal to the Court of Appeal from that decision on a question of law. The petition of  
30 appeal shall state the question of law to be argued, shall bear a certificate by an attorney-at-law that such question is fit for adjudication by the Court of Appeal, shall be presented to the Tribunal by the appellant within twenty- one days after the date of the Tribunal's decision from which the appeal

is preferred, and shall be accompanied by a sufficient number of copies for service on each of the persons mentioned as respondents. Every such petition of appeal shall be accompanied by the prescribed fee.

5 (3) Where a petition of appeal is presented to the Tribunal in the manner and within the time specified in subsection (2) of this section, it shall be the duty of the Tribunal—

10 (a) to cause the petition to be transmitted to the Court of Appeal together with the record of the proceedings in which the decisions of the Tribunal against which the petition is preferred was made; and

15 (b) to cause notice of the appeal and a copy of the petition of appeal to be served on each of the respondents named in the petition of appeal.

(4) Every appeal to the Court of Appeal under this section may be heard and determined by any two Judges of that Court.

20 (5) Upon a decision being given by the Court of Appeal in any appeal under this section, the Registrar of that Court shall remit the case to the Tribunal together with the decision of that Court, and it shall be the duty of the Tribunal, if the decision of that Court so requires, to rescind or vary in such manner as is required by the decision of that Court, the  
25 decision of the Tribunal from which the appeal was preferred and, where necessary for the purpose of giving effect to the decision of that Court, to make a fresh decision in that regard within thirty days thereof.

30 (6) In any appeal made to the Court of Appeal under this section that Court may make such Order in regard to costs as to that Court may seem fit.

(7) Any costs ordered by the Court of Appeal under subsection (6) of this section to be paid by any person may, notwithstanding anything contained in any other written law, be recovered, on application made in that behalf to the  
5 Magistrate's Court having jurisdiction in the place where that person is resident, in like manner as a fine imposed by that Magistrate's Court, notwithstanding that such of its ordinary jurisdiction impose.

(8) Subject to any regulations made under this Act, the  
10 Tribunal may regulate its own procedure.

**22.** The members of the Tribunal may be paid such remuneration as the Minister may determine with the concurrence of the Minister in charge of the subject of Finance.  
Remuneration of members of the Tribunal.

15 PART V

GENERAL

**23.** Any person who- Offences.

(a) contravenes any provision of this Act or of any regulation made thereunder; or

20 (b) furnishes, for the purposes of this Act, information which is, or any document the contents of which are, or any part of contents of which is, to his knowledge untrue or incorrect;

shall be guilty of an offence under this Act.

25 **24.** Every person who is guilty of an offence under this Act shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding fifty thousand rupees  
Punishment for offences.

or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment, and shall in addition be liable to a fine not exceeding rupees five hundred for each day on which the offence is continued  
5 after conviction.

**25.** No prosecution for an offence under this Act shall be instituted except by or with the written sanction of the Chairman.

No prosecution without the sanction of the Commissioner.

**26.** (1) An extract of the *Gazette* in which any Regulation or Order made under this Act is published, or a copy of such Regulation or Order certified by the Chairman to be a true copy, may produced in Court in proof of such Regulation or Order.

Proof of regulations and orders &c.,

(2) In any legal proceedings-

- 15 (a) a copy of an entry in any book of accounts maintained by the Monetary Board for the purposes by an account of the Central Bank of Sri Lanka to be a true copy; or
- 20 (b) a copy of an entry in any book or record maintained by the Chairman for the purposes of this Act purporting to have been certified by him to be a true copy,

shall be *prima facie* evidence of the fact that such entry has been made and of the contents thereof.

25 **27.** (1) The income from the investment of any moneys of the Fund shall be exempt from income tax chargeable under any written law relating to the imposition of income tax.

Exemption from income tax.

(2) The Fund shall be deemed to be a pension fund approved by the Commissioner, for the purposes of the Inland Revenue Act, No. 10 of 2006.

In this subsection "Commissioner" and "Commissioner-  
5 General" shall have the same meaning as in the Inland Revenue Act, No. 10 of 2006.

**28.** Stamp duty shall not be chargeable upon such documents used in connection with the purpose of this Act as may be prescribed. Exemption from stamp duty.

10 **29.** No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any regulations made there under. Protection for action taken under this Act.

**30.** (1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act and in respect of matters required by this Act to be prescribed or in respect of which regulations are authorized or required to be made. Regulations.

(2) Without prejudice to the generality of the  
20 powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters –

(a) in respect of all matters connected with or incidental to the collection of contributions and other  
25 payments under this Act;

(b) in respect of the refund of any sums paid in error to the Fund.

(c) for enabling a person to be appointed to exercise, on behalf of a claimant to a beneficiary who is a  
30 child or who may be unable for the time being to act, any right which the claimant may be entitled to



exercise under this Act, and for authorizing a person so appointed to receive and deal with a benefit to which a claimant is entitled;

- 5 (d) in respect to whom the amount standing to the credit of that member's individual account in the Fund may be paid in the event of that member's death ;
- (e) in respect of the manner in which and the time within which appeals to the Tribunal constituted under this Act shall be made;
- 10 (f) in respect of the fees to be paid for appeals to such Tribunal;
- (g) in respect of the procedure to be followed and the powers exercisable by such Tribunal;
- 15 (h) in respect of the circumstance in which costs may be awarded by such Tribunal against any party to an appeal made to the Tribunal and the manner of recovery of such costs;
- (i) to provide for matters arising—
  - 20 (i) pending the determination under this Act (whether in the first instance or on appeal) of any claim to a benefit or of any question affecting any person's right to a benefit or any person's liability for contributions to the Fund; or
  - 25 (ii) out of the revision on appeal to the Tribunal of any decision on any such claim or question;
  - (j) for the suspension of the grant of a pension pending the review by the Chairman of the determination upon the claim to that pension;
  - 30

- 5 (k) for treating any sum paid to any person under a determination made under this Act or by virtue of any provision of any regulation, which it is subsequently decided was not payable, as properly paid, or for the repayment by him and for the recovery from him of that sum;
- (l) the payment of allowances to officers and servants employed in carrying out the provisions of this Act and the method of computing such allowances;
- 10 (m) for the recovery of fees to be charged for the writing off of losses which may be incurred, in connection with the administration of this Act; and
- 15 (n) in respect of all matters necessary for carrying out the provisions of this Act or giving effect to the principal thereof.

(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 in the regulations.

- 20 (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 such disapproval, but without prejudice to anything
- 25 previously done thereunder.

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

**31.** In this Act, unless the context otherwise requires- Interpretation.

- 30 "Chairman" means the Chairman of the Sri Lanka Foreign Employment Bureau, established by the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985;

“employee” means any person who is engaged in an overseas employment and not covered under the Government Pension Minutes or any Pension Fund approved by the Commissioner of Labour ;

- 5 “Monetary Board” means the Monetary Board established under the Monetary law Act;

- 10 **32.** The provisions of this Act shall have effect notwithstanding anything contained in any other written law, and in any case of conflict or inconsistency between the provisions of this Act and such other law, the provision of this Act shall prevail. Act to prevail in case of conflict with other written law.

- 33.** In the event of a inconsistency between Sinhala and the Tamil text of this Act the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency.

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