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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) — PROVINCIAL COUNCILS

PROVINCIAL COUNCILS NOTIFICATIONS

SOUTHERN PROVINCIAL COUNCIL OF DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Co-operative Employees Pension Scheme Precept of the

Southern Provincial Council

I, Udalamaththa Gamage Dayawansha Ariyathilaka, Minister of Trade of the Southern Provincial Council do hereby notify that the draft of the Co-operative employee's pension scheme Precept No. of 2019 of the Southern Provincial Council published hereunder will be presented in the Southern Provincial Council of the expiry of two weeks from the date of its publication in this *Gazette*. Any person who wishes to make any representation or amendment regarding any of the provisions of the said precept, shall forward the same to me within the said period.

UDALAMATHTHA GAMAGE DAYAWANSHA ARIYATHILAKA,
Minister,

Southern Provincial Ministry of Agriculture,
Agrarian Development, Irrigation, Water Supply
and Drainage, Food Supply and Distribution,
Trade and Co-operative Development.

23 Day of January 2019,
Office of the Minister of Trade,
Galle.



**Southern Province's Draft Precept on
Co-operative Employee's Pension Scheme**

No.... of 2019

A Precept to make provision to institute a Pension scheme for the Southern Province Co-operative employees and to provide for a mechanism for the Co-operative Development Commissioner and the Registrar to operate that scheme within the Southern Province, and to provide for matters related to same.

The Southern Provincial Council herewith enact

Concise name
and the date
effective.

1. This Precept, known as the Precept for Southern Province Co-operative Employee's Pension Scheme No. of 2018 shall be effective from the date it is sanctioned by the Governor of the Southern Province.

Section 1

Establishing the Co-operative Employee's Pension Scheme

Instituting the
Crop.
Employee's
Pension Scheme.
A Corporation
with legal
Character.

2. (i) A pension scheme called the Co-operative Employee's Pension Scheme is to be instituted in accordance with the provisions of this Precept.
- (ii) This Pension Scheme should be a legitimate corporation with perpetual succession and a common seal and also that by virtue of its co-operate character could sue and be sued and is in a position to reason out in Courts and be a legitimate corporation with powers to accomplish all that is necessary under this Precept.

Appointing
Director.

3. (i) To administer the Pension scheme, the person holding the post of Southern Province Co-operative Development Commissioner at the current time should be the Director of the Pension Scheme.

Director's role.

- (ii) The Director of the Scheme is responsible for supervision, control and administration of the activities of the scheme.

Advisory
Executive
Committee.

- (iii) In order to offer counsel and recommendations to the Director on all matters of control and administration, an Advisory executive committee as mentioned below, comprising of seven persons should be present. Of these persons the Minister should appoint members as per clauses (f) and (g) under article 3(iV) and the Co-operative Development Commissioner should appoint members as per clause(e) of the article.

Composition of
the Advisory
Committee.

- (iv) As members of the Advisory Committee,
 - (a) Secretary to the Ministry in charge of the subject of Co-operative.
 - (b) Deputy Chief Secretary (Finance Management) of the Southern Provincial Council.
 - (c) Commissioner General of Labour or an Executive Officer of the department nominated by him.
 - (d) Secretary to the Corporative Employees Commission of the Southern Provincial Council

- (e) A Director or a General Manager representing Co-operative Rural Banking Societies of Hambantota, Galle and Matara districts in the southern province.
- (f) Chairman of a co-operative society in the southern province with service experience not less than five years and who has not been found guilty of an offense at a legitimate inquiry.
- (g) An employee of a co-operative society in the southern province with service experience not less than twenty years, currently in service or retired and who has not been found guilty of an offense at a legitimate inquiry.
- (v) As may be decided by the Advisory Committee, the staff required to run the Pension scheme could be deployed from the officers engaged in the service of the Southern Provincial Council. Staff of the Scheme
- 4 (i) (a) The period of office of the Advisory committee members described in clauses(a), (b), (d), (e) of article 3(1V) of the Precept should be limited to the period they hold such office. Qualifications of Advisory Committee members and their period in office.
- (b) The period of office of the Advisory committee member described in clauses(c) of article 3(1V) of the Precept, when the committee member is the Commissioner General of Labour himself/herself, should be limited to the period of holding such office. If an executive officer of the department is being nominated by the Commissioner General of Labour as the member of the committee, that officer's period of office shall be three years unless death or resignation creates a vacancy. However, if the Commissioner General of Labour appoints an alternative officer, by that act the office of the first officer will cease to exist.
- (c) The period of office of the Advisory committee members described in clauses (f) & (g) of article 3(1V) of the Precept should be limited to period of three years unless death or their resignation addressed to the Minister cease their office.
- (ii) If the Advisory committee members described in clauses (f) & (g) of article 3(iv) of the Precept vacates his/her office as above, a replacement should be made as per clause 3(iii) and that replacing officer will function for the balance period of the officer he/she replaced.
- (iii) If it is revealed that a Particular Advisory Committee member is unable to attend to his duties due to sickness or being overseas, the Minister may appoint the officer who otherwise covers his duties to the Advisory committee in his/her place.
- (iv) A member who leaves office of the Advisory Committee is entitled to be re-appointed to office unless that member had been removed from office,
- (v) If a member of the advisory committee, appointed in terms of clause (e) of article 3(iv) of the Precept, fails to attend three consecutive meetings of the committee, the Co-operative Development Commissioner may appoint an alternative member in terms of the said article and that member so appointed should serve the balance period of office of the member he/she substituted.
- (vi) If a member appointed to the Advisory committee as per clauses (f) & (g) of article 3(iv) absents himself/herself from three consecutive meetings of the committee, the Advisory committee should report that fact to the Minister.

The role of the Advisory Committee	5.	The Advisory committee may use, all or any, of the following powers listed below.
	(i)	Formulate policies to implement this scheme.
	(ii)	Counsel the Director on matters related to management, operation and implementation of the scheme.
	(iii)	Monitoring and appraising the activities of the scheme
Meetings of the Advisory Committee	6.	(i) The Secretary to the Minister in charge of the subject of Co-operative is the chairman of the Advisory Executive Committee and he / she should chair all the meetings of the Committee.
	(ii)	The Director is the secretary to the Advisory Committee. He/ She should call all the meetings of the committee and conduct the meetings in such a way, so as to achieve the objectives set out in the Precept.
Vacancy/ Vacancies	(iii)	When a vacancy or vacancies exist in the Advisory Committee, that fact should not be a reason for the decisions taken at the meetings to be invalid.
Quorum	(iv)	The quorum for the meetings of the advisory committee should be four members
Stipend of the Advisory Committee	7.	The members of the Advisory committee may be paid a stipend for attending the meetings of the committee; an amount determined by the Minister in charge of Co-operative in concurrence with the Minister of Finance of the Southern Provincial Council.

Section 2

Implementing the Co-operative Employee's Pension Scheme

Qualifications to join the scheme	8.	A Co-operative employee, who joined the service before the effective date of this Precept, employed up to this date, and not less than 18 years of age and up to 60 years of age, with a permanent appointment, is entitled to join this scheme.
Mandatory to be a Contributor	9.	The employees who join the permanent service of the Co-operative employment from the date this Precept comes into effect are essentially required to join this scheme.
Benefits of the Scheme	10.	(i) A Co-operative Society employee who joins this scheme (hereinafter known as a contributor) is entitled to the following benefits under this scheme on a basis determined by directives. (a) A pension salary stipulated on periods of time (b) A Death gratuity here in after named Gratuity, stipulated based on periods of time (ii) The basis for determining the payment of Pension salary and Death Gratuity should take into consideration the period of contribution, the age of the contributor and the quantum of the contribution made by the contributor.
Instances where pensions should be paid	11.	(i) The contributor should be entitled to the Pension salary upon completing 60 years of age. However, even though a contributor who has commenced his contribution has completed making his/her stipulated contribution, the entitlement to the pension salary will commence only after one year from the date of approval of the scheme.

- (ii) whatever the date of the month on which the contributor dies, the pension salary shall be paid for the full month.
12. In the event where the 12.contributor dies before he/she becomes entitled to receive his/ her pension salary, a stipulated Death gratuity will be paid to the dependents survived, on the basis of directives. Death Gratuity.
- 13 (1) If a contributor, before he/she becomes entitle to receive a pension salary, has been found to have caused a financial loss to the employer, the co-operative society, by a legitimate investigation, such contributor will not be entitled to any pension salary or a gratuity under this Precept. However, having compensated the said financial loss caused by him/ her, the contributor will entitle himself/herself to continue with the scheme as per the directives issued and as per the provisions of article 14 of this Precept. Non-entitlement to the Pension Salary
- (ii) (a) In the event where a contributor, at the time of his/her retirement from services is subject to an investigation on account of a financial loss caused to the employer, the corporative society, the Director shall have the authority to withhold temporarily, any payment on account of the Pension scheme to that contributor, until the investigation is brought to a conclusion.
- (b) If the investigation as per 13 (ii) (a) is taking more than three months, the contributor may be paid half, or less of the pension salary, with the approval of the Advisory committee, without prejudice to the investigation underway.
- (c) If the contributor is found not guilty at the investigation held as per 13 (ii) (a) above, the contributor is entitled to receive his pension salary effective from the date he/she retired.
- 14 (1). At the time a Co-operative employee is enlisted as a contributor to the scheme, the Director should issue a certificate containing; The Director should issue certificates to each & every member.
- (a) the amount payable by the contributor as the contribution
- (b) the amount payable by the corporative society as its contribution
- (c) the directions and conditions of the certificate
- (d) the benefits receivable by the contributor as per the certificate issued to the contributor.
- (ii) If a contributor has failed to make his contribution, due on a particular Day, three times, consecutively or from time to time, that member shall disown benefits he is said to be entitled to, as per the certificate issued.
- (iii) In a situation where a member (contributor) is to lose the benefits he/she is said to be entitled as per the certificate issued, the Director should communicate that to the member concerned by a notice.
- (iv) The contributor should have the right to have system to make an appeal to the Director to revalidate a certificate as per the directives prescribed, and when the reason of delay for paying the installments is beyond the contributors control and if the Director is satisfied as to that fact, the Director may revalidate the certificate.
- (v) When the Director decides to revalidate a certificate, the contributor should be informed of the date before which the installments should be paid and if the contributor

fails to pay the installments as stipulated, the particular certificate of the contributor may be treated as canceled.

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| Contributions. | 15. | The contributors or the Pension Scheme should pay the contribution monies of this scheme as per the stipulations prescribed by the directives. The contributions made by the contributors to this scheme, employed in co-operative societies, should be transferred to the Scheme by the co-operative society. The date on which the contributions are stipulated to be paid as per the directives should be particularly notified and if a co-operative society is not making the payment on that stipulated day that society should be subjected to a fine as per the directives. |
| The liquidation or integration will not deprive of the pension salary. | 16. | <p>(i) In the event where a particular co-operative society's registration has been canceled pending legal liquidation and if the contributor has made his contribution right up to the date of cancellation, the pension salary should be paid as stipulated in the directives.</p> <p>(ii) if one Co-operative society is integrating by law with another Co-operative society or, on the other hand, if a single corporative society is deviding itself in to two or more societies legally, the contributor should not consider these eventualities as measures of losing his/her pension rights but rather as an entitlement to retain his/her rights under the resulting corporative society that is the new employer.</p> |
| Grants to be decided by the Director. | 17. | The Director should determine the benefits to be granted to a contributor as per the stipulations made on directives. |
| Right to appeal. | 18. | <p>(i) A contributor not in agreement with the decision of the Director could make an appeal to the Co-operative Employees Commission.</p> <p>(ii) A contributor not in agreement with the decision of the Director could make an appeal to the Co-operative Employees Commission within 30 days after receiving the decision of the Director.</p> <p>(iii) The ruling of the Co-operative Employees Commission on the appeal should be notified to the appellant within 90 days of making the appeal.</p> <p>(iv) The ruling of the Co-operative Employees Commission on such an appeal should be final and effective.</p> |
| Appeals to be made within 30 days | | |
| Ruling on appeals within 90 days. | | |
| Transfer or recovery not permitted from the pension, grants and the gratuity. | 19. | A pension salary, gratuity or a grant payable by the scheme should not be transferred or conceded to a third party and all such transfers or acts of ceding will be invalid, ineffective and zeroed. Except under this Precept or except under the authority granted to the Director by directives issued as per this Precept, no third party may attempt to obtain a writ notice or a lien on account of a loan or any such due from the contributor to this scheme against his/her pension salary, gratuity or grant under this Precept. |

Section 3

Co-operative Employee's Pension Fund

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| Co-operative employee's Pension Fund. | 20 | (i). A Co-operative Employees Pension Fund, here in after referred here as the Fund should be instituted. |
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- (ii) The said Fund could be credited with;
- (a) monies sanctioned by the Southern Provincial Council from time to time for the purpose of operating this scheme.
 - (b) Quantum of funds granted by the Provincial Minister of Finance from time to time as advances to the Director.
 - (c) Monies credited by the Co-operative Fund
 - (d) Monies received, annually or periodically, from co-operative societies
 - (e) Monies received on account of exercising one's own authority in accomplishing tasks and achieving objectives under this Precept
 - (f) Monies received in the form of gifts and grants from connected associations
 - (g) Monies received from contributors to the scheme as stipulated Contributions
 - (h) Monies received from investments as interests or as profits. All monies received as gifts and donations from connected parties and monies received as advances by the Director from Co-operative societies in the performance of duties under this precept.
- (iii) In conducting the affairs of this Fund it is necessary that a Current account of the Fund should be opened in a Government Bank.
- (iv) This Fund should bear the expenses of all items of expenditure incurred by the Advisory executive committee and the Director in the performance of their duties and in exercising their authority in achieving the objectives of this precept and the expenditure incurred on directives issued under this precept.
21. As per this Precept, all monies of the Fund, other than those that are needed for immediate expenses by the director, should be invested by the Director in a Government Bank or a Government Finance institution as determined by the Advisory executive committee. Investing monies
22. The Director with the approval of the Advisory Executive committee may obtain loans from the Co-operative fund in order to fulfill the obligations of the Director, or in other words, to meet the requirements of this scheme and to accomplish the objectives of this Precept. Authority to obtain credit & Loans
23. (i) The Financial year of the scheme shall be the calendar year from January to December of the year. Financial Year
- (ii) It is the responsibility of the Director to ensure that the Accounts are maintained according to accepted accounting principles, fundamentals and standards. For this purpose, the Director may obtain the services of the Accountant of the southern Province Corporative Development Department. Preparing the Accounts
- (iii) The Director should prepare an estimate of the annual expenditure for the operation of the scheme and present same to the Advisory Committee and obtain its approval.
- (iv) At the end of every quarter a Three Month's Income and Expenditure statement should be prepared, and that statement should be presented to the Advisory committee within 30 days of the end of that quarter.

Accounts should be presented to the Provincial Council

- (v) The Director should facilitate the preparation and balancing of account As at 31st December of every year and an Income and expenditure account and a Balance sheet giving a summary of the assets and liabilities as at that date, should be presented to the Advisory committee before 31st March of the following year.
- (vi) Thereafter the information contained in 23. (v) above should be presented to the Provincial Council before 30th June of that year.

Auditing the Accounts

- (vii) Every year the accounts of the scheme should be audited by, either the officer in charge of audits of the Provincial Council, or according to law by the Auditor General's Department.

4th Section

Miscellaneous Matters

Preparing the Directives

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- (i) The Minister, as per this Precept is called upon to issue directives on certain matters mentioned as 'the Minister should' and 'the minister may' at instances in this precept. Therefore, the Minister in charge of Co-operative may Issue directives on those particularly, and generally on matters mentioned below.
 - (a) To regularize, administer and manage the Pension Scheme.
 - (b) To determine, as to under what qualifications, conditions, circumstances and under what limitations a corporative employee is entitle to become a member of this scheme.
 - (c) To determine the amount of money to be contributed by the members themselves, and by the Co-operative societies on behalf of the contributors.
 - (d) To determine the basis on which Pensions, gratuity and grants are to be paid to the contributors.
 - (e) To determine the conditions regarding non - payment of contributions.
 - (f) To Institute rules and work procedures on the Advisory executive committee activities.
 - (g) To Institute rules and work procedures on the appeal making process.
 - (h) To determine on the cancellation and the revalidation of the claim Certificate.
 - (i) To determine the basis of payment and the quantum to be paid on the death gratuity.
 - (j) To determine the relevant specifications and formats.
- (ii) All directives issued by the Minister should be published in the *Gazette* publication. Thus, the directives so issued will be effective, either on the day published or on the day as mentioned' to be effective from in the directives.
- (iii) the directives, after publication in the *Gazette* should be submitted to the Provincial Council without delay for approval. After approval by the PC such approvals should also be published in the *Gazette*. However, those directives that fail to obtain PC approval should be treated as rescinded from the date it failed to obtain approval but with no effect on activity that may have been initiated before that date. The directive that is rescinded should also be published in the *Gazette*.

25. Under this Precept, it should not be possible to file a civil or criminal case against an officer, citing exceptions and exigencies, who has otherwise acted in good faith in the conduct of his/her duties with the sole intention of fulfilling the task entrusted to that officer. The category of officer that come under this situation could be listed as under.
- Protection for the action taken under this Precept, or as per directive by the authorities
- (i) The Director, the Advisory Executive Committee, a member of the Advisory Executive committee, Co-operative Employees Commission or a member of the Corporative Employees Commission.
- (ii) An officer or an employee, of this scheme or of the Co-operative Employees Commission who acts on the directive of the Director, Advisory Executive Committee or the Corporative Employees Commission.
26. Every Co-operative society, that acts in breach of the provisions of this Precept, or the provisions of the directives issued under this Precept and the corporative societies that fails to comply with those said provisions are guilty of an offense and thus when proven guilty before a Magistrate at a summary trial, should be subjected to a period of imprisonment not exceeding 6 months in one of the two ways or to a fine of rupees twelve thousand or to a penalty of both, the fine and the imprisonment.
- Offences & Penalties
27. Unless an alternative definition is required, the following terms used in this precept should generally mean as below.
- Definitions
- ‘Provincial Council’ should mean the Southern Provincial Council.
- ‘Minister’ should mean the Minister in charge of the subject of Co-operative in the Southern Provincial Council at the time.
- ‘Co-operative Employee’s Commission’ should mean The Southern Province Co-operative Employee’s Commission instituted by the Southern Province Co-operative Employees Commission Precept No. 1 of 1998.
- ‘Co-operative Society’ should mean a Co-operative society registered in the Southern Province under the Co-operative Society Act, No.5 of 1972, amended by Act, No. 11 of 1992 and Act, No.32 of 1983.
- ‘Co-operative Society Association’ should mean a Co-operative society comprising of a number of Co-operative societies registered in the Southern Province under the Co-operative Society Act, No.5 of 1972, amended by Act, No. 11 of 1992 and Act, No.32 of 1983.
- ‘Employee’ should mean an employee who has secured a permanent position in a Co-operative Society/ Co-operative Society Association as defined by the Co-operative Employees Commission Act, No. 12 of 1972 and by the Southern Province Co-operative Employees Commission Precept No. 1 of 1998.
- A ‘Legitimate Inquiry’ should mean a proper inquiry conducted in terms of the provisions of Act, No. 5 of 1972 amended by Act, No. 32 of 1983 and Act. No. 11 of 1992.
28. In the event where there is inconsistency between the Sinhala, English and Tamil versions of this Precept, the Sinhala version should be taken to prevail.
- Effective version in an inconsistency