

THE UNITED REPUBLIC OF TANZANIA



No. 8 OF 1976

I ASSENT,

31st JULY, 1976

An Act to give effect to the Agreement entered into between the Government of the United Republic and the Government of the United Kingdom of Great Britain and Northern Ireland in relation to payment of pensions to certain public officers

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Pensions and Gratuities (Special Provisions Act, 1976 and shall come into operation on such date (hereinafter referred to as "the effective date") as the Minister may by notice in the *Gazette*, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires

Interpretation

"the Agreement" means the Agreement made between the Government of the United Republic and the Government of the United Kingdom of Great Britain and Northern Ireland and set out in the Schedule to this Act;

"Minister" means the Minister for the time being responsible for finance;

"pension" means any pension, gratuity, compensation and interest thereon, or any retiring allowance or other like benefit, or any increase of pensions, or any contributions repayable to, or interest on contributions payable to, any officer, or in, respect of any officer or to his legal personal representative and to which the Agreement applies.

Transfer of responsibility for payment of certain pensions

3. Notwithstanding the provisions of any other written law, with effect from the effective date, the Government of the United Republic shall relinquish responsibility for the award, control, administration and payment of any pension or widows' and orphans' pension to or in respect of any officer or widow or child or legal personal representative.

tative of any officer to which the Agreement applies and in relation to which the Government of the United Kingdom of Great Britain and Northern Ireland has, by virtue of the Agreement, assumed responsibility.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING PUBLIC OFFICERS' PENSIONS

The Government of the United Republic of Tanzania (hereinafter referred to as "the Government of Tanzania") and the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") have agreed as follows:

ARTICLE I

INTERPRETATION

- (1) In this Agreement, except where the context otherwise requires-
 - (a) "actuary" means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland;
 - (b) "the appointed day" means the day mutually arranged between the Government of the United Kingdom and the Government of Tanzania;
 - (c) "inducement allowance" means any inducement allowance which is pensionable under the pensions laws enjoyed by an officer under the Overseas Service (Tanganyika) Agreement, 1961, or any agreement or arrangement amending or replacing the same or the Overseas Service (Zanzibar) Agreement, 1961, or any agreement or arrangement amending or replacing the same;
 - (d) "officer" means:
 - (i) an officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the Government of Tanganyika signed at Dar es Salaam on 14th March, 1962 as amended by the Overseas Service and Public Officers (Tanganyika) Amendment Agreement 1963 (hereinafter referred to as "the Public Officers (Tanganyika) Agreement as amended") applies or applied, or
 - (ii) an officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and His Majesty the Sultan's Government in Zanzibar signed at Zanzibar on 10th December, 1963 (hereinafter referred to as "the Public Officers (Zanzibar) Agreement") applies or applied; or
 - (iii) a person not being an officer to whom sub-paragraph (i) of this paragraph applies who was before 14th March, 1962 the substantive holder of a pensionable office in the public service of Tanganyika and whose terms of service before that date included an entitlement to free passages from East Africa for the purpose of leave of absence upon the completion of a tour of duty, and who was not a citizen of Tanzania on 1st April, 1971 or who, having retired from the public service or having died in public service after that date, is not or was not a citizen of Tanzania at the time of his retirement or death, as the case may be;
 - (e) "other public service" means public service not under the Government of Tanzania;
 - (f) "pension" means any pension, gratuity, compensation and interest thereon, or any retiring allowance or other like benefit, or any increase of pension, or any contributions repayable to, or interest on contributions payable to, any officer, payable under the pensions laws by the Government of Tanzania to or in respect of any officer, or to the widow or child of any officer or to his legal personal representative;

- (g) "pensionable emoluments" means:
- (i) in respect of public service under the Government of Tanzania, emoluments which count for pension under the pensions laws;
 - (ii) in respect of other public service, emoluments which count for pension in accordance with the applicable law or regulations of such service;
- (h) "pensions laws" means:
- (i) in relation to pensions other than widows' and orphans' pensions:
 - (aa) any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service and in force in Tanzania at any time prior to 1st April, 1971 and enacted prior to that date;
 - (bb) the Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961, and the Zanzibar (Compensation and Retiring Benefits) Regulations, 1963;
 - (cc) the Retirement (Special Provisions) Act, 1962, Chapter 483 of the Laws of Tanganyika and any amendments thereto in force at any time prior to 1st April, 1971 and enacted prior to that date;
 - (ii) in relation to widows' and orphans' pensions, the Widows and Orphans Pensions Ordinance Chapter 54 of the laws of Tanganyika, and any amendments thereto in force at any time prior to 1st April, 1971 and enacted prior to that date (hereinafter referred to as "the Widows and Orphans Pensions Ordinance"), the Widows and Orphans Pensions Decree, Chapter 47 of the laws of Zanzibar, and any amendments thereto in force at any time prior to 1st April, 1971 and enacted prior to that date (hereinafter referred to as "the Widows and Orphans Pensions Decree") and the Asiatic Widows and Orphans Pensions Decree Chapter 48 of the Laws of Zanzibar, and any amendments thereto in force at any time prior to 1st April, 1971 and enacted prior to that date (hereinafter referred to as "the Asiatic Widows and Orphans Pensions Decree"); and
 - (iii) in relation both to widows' and orphans' pensions and to other pensions, any other law, regulation or administrative direction accepted by the Government of the United Kingdom and the Government of Tanzania for the purposes of this Agreement;
- (i) "Public service" means:
- (i) service in a civil capacity under the Government of Tanzania or any other country or territory in the Commonwealth;
 - (ii) service under the East Africa High Commission, the East African Common Services Organization, the East African Posts and Telecommunications Administration, the East African Community, the East African Railways and Harbors Administration, the East African Harbours Corporation the East African Posts and Telecommunications Corporation or the East African Railways Corporation;
 - (iii) service which is pensionable:
 - (aa) under the Over sea Superannuation Scheme; or
 - (bb) under any Acts relating to the superannuation of teachers in the United Kingdom; or
 - (cc) under a local authority in the United Kingdom; or
 - (dd) under the National Health Service of the United Kingdom;
 - (iv) any other service accepted by the Government of the United Kingdom and the Government of Tanzania to be Public service for the purposes of this Agreement;
 - (v) except for the purposes of computation of a pension, gratuity or other allowance and of determination of the maximum pension grantable, service as a Governor in respect of which a pension may be granted under the Overseas Pensions Act, 1973 or any Act amending or replacing that Act;
 - (vi) service as the holder of the office of President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa established by the Eastern Africa Court of Appeal Order in Council, 1961 (United Kingdom S.I. 1961 No. 2323) or the Court of Appeal for East Africa;

- (vi) service in the service of the interim Commissioner for the West Indies;
- (j) "relevant service" means public service in a civil capacity under the Government of Tanzania:
 - (i) in respect of an officer to whom subparagraphs (d) (i) or (d) (iii) of this Article applies on or after 1st July, 1961; and
 - (ii) in respect of an officer to whom sub-paragraph (4) (ii) of this Article applies, on or after 1st August, 1963;
- (k) "the Tanzania element" in relation to a pension other than compensation or interest thereon payable under the Tanganyika Compensation and Retiring Benefits) Order in Council, 1961 or under the Zanzibar (Compensation and Retiring Benefits) Regulations, 1963 or a widows' and orphans' pension means:
 - (i) in respect of a pension arising from death resulting from an injury on duty or from contracting a disease or a pension or additional pension arising from such an injury or from such a disease being a pension which results from an occurrence during relevant service, that proportion of the pension which the rate of the officer's pensionable emoluments other than inducement allowance at the date he, received the injury or contracted die disease bears to the rate of the officer's total pensionable emoluments at that date;
 - (ii) in the case of any other pension, that proportion of the Pension which the total pensionable emoluments other than inducement allowance enjoyed by the officer during his relevant service bears to the total Pensionable emoluments enjoyed by him throughout his public service under the Government of Tanzania which have been taken into account in determining the amount of that pension;
- (l) "the taxation element" means the sum accepted by the two Governments as equivalent to the proceeds of income tax or any similar tax received by the Government of Tanzania on any sums which are reimbursable in accordance with sub-paragraph (1) (d) of Article 3;
- (m) "widows' and orphans' pensions" means pensions payable under the Widows and Orphans Pensions Ordinance, the Widows and Orphans Pensions Decree or the Asiatic Widows and Orphans Pensions Decree.

2. In relation to any period before 26th April, 1964 references to the Government of Tanzania shall be construed as references to the Government of Tanganyika or the Government of Zanzibar and references to Tanzania shall be construed as references to Tanganyika or Zanzibar.

ARTICLE 2

ASSUMPTION OF THE BY GOVERNMENT OF THE UNITED KINGDOM

As from the appointed day the Government of the United Kingdom shall from the Government of Tanzania the responsibility for the control, administration and payment of pensions which have been awarded before the appointed day and for the award, control, administration and payment of pensions which would fall to be awarded on or after the appointed day.

ARTICLE 3

OBLIGATION OF THE GOVERNMENT OF THE UNITED KINGDOM

- (1) The Government of the United Kingdom undertake:
 - (a) that they shall award, control, administer and pay the pensions referred to in Article 2 of this Agreement to or in respect of the person concerned in such modifications as may be necessary in consequence of the transfer of responsibility under this Agreement, or in accordance with such other principles and rules as the Government of the United Kingdom consistently with the next following paragraph may from time to time determine;
 - (b) that apart from any modifications arising from the pensions being payable out of public moneys of the United Kingdom they shall not apply to any officer different provisions from those contained in the pensions laws (other than any provisions express or implied, relating to the currency and method of payment of a pension so as to make such provisions less favourable to any beneficiary or potential beneficiary than the provisions applicable to him on the appointed day: provided that if a beneficiary or potential beneficiary objects to have any provisions applied to him that provision shall be taken to be more favourable to him;

- (c) that if the Government of Tanzania should be adjudged by the order of a competent court of law having jurisdiction in Tanzania to be liable to pay to or in respect of an officer or the widow or child or legal personal representative of an officer any sum in respect of a Pension for which the Government of the United Kingdom have assumed responsibility under this Agreement, the Government of United Kingdom shall repay to the Government of Tanzania any sum paid to such person for the purpose of complying with the order of the court; but in this event the Government of the United Kingdom shall be free to reduce by corresponding sums, or totally to withhold, any payments of the same pension to or in respect of that person which would otherwise fall to be made by them under this Agreement;
 - (d) that they shall reimburse the Government of Tanzania, in accordance with such procedure as may be mutually arranged between the two Governments, the aggregate amount, less the taxation element, of any payments due on or after 1st April, 1971, being amounts due under the pensions laws, and made by the Government of Tanzania to or in respect of officers to whom sub-paragraph (d) (iii) of Article I refers which represent that proportion of a pension or gratuity payable to or respect of an officer which accrues from public service under the Government of Tanzania before 1st July, 1961.
- (2) For the purposes of sub-paragraph (1) (d) of this Article the proportion of a pension or gratuity which accrues from public service under the Government of Tanzania before 1st July, 1961 is that proportion which the total pensionable emoluments received by an officer from public service under the Government of Tanzania Prior to 1st July, 1961 bears to his total pensionable emoluments received from all public service under that Government.

ARTICLE 4

OBLIGATION OF THE GOVERNMENT OF TANZANIA

- (1) The Government of Tanzania undertake:
 - (a) that they shall remain responsible for any instalments of pension which remain unpaid on the appointed day;
 - (b) that they shall as from the appointed day relinquish responsibility for the award, control, administration and payment of any pension otherwise than in accordance with the terms of this Agreement;
 - (c) that they shall pay to the Government of the United Kingdom in accordance with such arrangements as may be accepted by the two Governments:
 - (i) In respect of any pension (other than a widows' and orphans' pension) awarded before the appointed day to or in respect of an officer, a sum representing the cost, of any, of the Tanzania element of such pension
 - (ii) in respect of any pension (other than a widows' and orphans' pension) awarded on or after the appointed day to or in respect of an officer:
 - (aa) that part of the sum which would represent the Tanzania element of such pension if the public service of the officer ceased on the appointed day, which is attributable to the officer's relevant service up to the day immediately preceding the appointed day; and
 - (bb) 25 per cent of the officer's pensionable emoluments, other than induce, meet allowance, earned during that part of his relevant service which occurs on or after the appointed day.
- (2) The sums payable under sub-paragraphs (1) (c) (i) and (1) (ii) (aa) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Tanzania and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Tanzania would have received in respect of the Tanzania element of the pensions.

ARTICLE 5

SUPPLY OF INFORMATION

Each of the Parties to this Agreement shall whenever requested to do so by the other Party, supply to that Party such information in connection with the operation of the arrangements contained in this Agreement as may be specified in such request.

ARTICLE 6

MODIFICATION OF PREVIOUS AGREEMENTS

(1) On and after the appointed day the provisions of the Overseas Service (Tanganyika) Agreement, 1961, and any agreement or arrangement amending or replacing the same, or the Overseas Service (Zanzibar) Agreement, 1961, or any agreement or arrangement amending or replacing the same, relating to the reimbursement of the Government of Tanzania by the Government of the United Kingdom of a proportion of the cost of a pension shall cease to apply to any pension payable to or in respect of an officer to whom this Agreement applies in respect of any period beginning on the appointed day.

(2) On and after the appointed day the provisions of Articles 3 4 5 6 and the words "and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted" in Article 7 (2), and Article 8, of the Public Officers (Tanganyika) Agreement as amended and Articles 3 4 and the words "and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted" in Article 8 (2), and Articles 8 (3) and 9 of the Public Officers (Zanzibar) Agreement, shall cease to apply to or in respect of officers to whom this Agreement applies.

ARTICLE 7

MODIFICATION OF THIS AGREEMENT

If the Government of the United Kingdom and the Government of Tanzania mutually decide that this Agreement should be modified in any particular case or class of cases, the foregoing provisions of this Agreement shall be applied to such case or cases with such modifications, additions or exceptions as may be necessary to give effect to such mutual decision.

ARTICLE 8

ENTRY INTO FORCE

Each of the Parties to this Agreement shall, prior to the Appointed Day, take all the measures including the enactment of domestic legislation necessary to enable such party to give effect to the Agreement, and shall notify the other Party in writing as soon as these measures have been completed. This Agreement shall enter into force on the date of the later of these notifications.

ARTICLE 9

CITATION

This Agreement may be cited as the Public Officers' Pensions (Tanzania) Agreement, 1976.

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Dar es Salaam this twenty-fourth day of March, 1976.

*For the Government of the
United Republic of Tanzania*

AMIR JAMAL,
Minister for Finance and Planning

*For the Government of
the United Kingdom of
Great Britain and
Northern Ireland*

MERVYN BROWN,
United Kingdom
High Commissioner

Passed in the National Assembly on the twenty-second day of July, 1976.



Clerk of the National Assembly