

CHAPTER 20**CASUAL EMPLOYEES PENSIONS**

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SCHEDULE

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CHAPTER 20

CASUAL EMPLOYEES PENSIONS

An Act to provide for the grant and payment of pensions and gratuities to persons who have been employed on a casual basis in the public service.

1961-44. 1976-11.
1962-11. 1978-41.
1963-21. L.N. 168/
1964-45. 1967.
1967-3. 1979-16.
1967-24. 1987-1.
1971-13. 1989-9.
1973-18. 1998-29.

[1st February, 1962] Commence-
ment.

1. This Act may be cited as the *Casual Employees Pensions Act*. Short title.

2. (1) For the purposes of this Act, the expression Interpretation.
"casual employee" or "employee" means a person who is employed on

a casual basis in the public service and who

(a) is not holding or acting in any office established by an order under the *Civil Establishment Act*; or Cap. 21.

(b) is not a public employee specified in the *Public Employees Pensions Act*; Cap. 30.

"department" means a department of the Government;

"Minister" means the Minister responsible for Finance;

"pensionable emoluments" means the regular wages paid to an employee in respect of his services and any interim payment made pending a revision of wages, but does not include any wages paid in respect of overtime work or by way of bonus or any compensation in respect of the termination of a period of temporary service paid out of moneys voted for the purpose by Parliament; 1973-18.
1978-41.

- 1978-41. "pensionable service" means service which may be taken into account in computing pensions under this Act but does not include temporary service in respect of which compensation is, on the termination of that service, paid out of moneys voted for the purpose by Parliament.
- L.N. 168/
1967. "public service" includes service as an employee of a scheduled authority or body;
- 1964-45.
Schedule. "scheduled authority or body" means an authority or body specified from time to time in the *Schedule*.
- 1964-45.
Schedule. (2) The Minister may from time to time, by order published in the *Official Gazette*, amend the *Schedule* by deleting therefrom any scheduled authority or body or by including therein any other authority or body.
- Grant of
pensions
and
gratuities. **3.** (1) The Minister may, subject to the provisions of this Act, grant pensions and gratuities to casual employees who have been in the public service.
- (2) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of the employee's retirement.
- Pensions
and gratu-
ities to be
charged on
Consoli-
dated Fund. **4.** (1) There shall be charged on and paid out of the Consolidated Fund all such sums of money as may from time to time be granted by way of pension or gratuity pursuant to this Act.
- (2) Every scheduled authority or body shall, in respect of every financial year on the demand of the Accountant-General, pay out of its funds, into the Consolidated Fund in aid of the pensions of its casual employees a sum equal to one-quarter of the amount paid as wages in each financial year to such employees in respect of employment for 220 days.
- 1964-45.
1967-3. **5.** An employee shall not have an absolute right to compensation for past services or to any pension, gratuity, or other allowance; nor shall anything in this Act prevent an employee from being dismissed at any time and without compensation.
- Pensions
and
gratuities
not as of
right.

6. (1) Retirement from employment in the public service shall be compulsory for every employee on attaining the age of 65 years. Compulsory retirement. 1971-13.

(2) No person other than one who on or before the appointed day is an employee shall, subject to section 7, be entitled to the grant of a pension nor may such pension be granted under section 8. 1971-13.

(3) For the purpose of this section and of section 10, the expression "appointed day" means such day as the Minister may by order appoint.

7. (1) A pension shall not be granted under this Act to any employee unless such employee

- (a) has been employed in the public service for 10 years or more; and
- (b) has retired on or after attaining the age of 55 years.

Circumstances in which pension may be granted.
1987-1.

(2) Notwithstanding subsection (1), an employee who at the date of his retirement has not attained the age of 55 years may nevertheless be granted a pension, if, on medical evidence, the Minister is satisfied that such employee is by reason of infirmity of mind or body unfit for further employment, such unfitness not being attributable to the employee's own misconduct or negligence.

(3) Notwithstanding subsections (1) and (2), pension may be granted to an employee who retires from the public service before attaining the age of 55 years but payment thereof shall be suspended until

- (a) he has attained the age of 55 years or sooner dies; or
 - (b) he satisfies the Minister that he is disabled and his condition is likely to be permanent.
- (4) Subsection (3) applies only to those persons who
- (a) left the public service before attaining the age of 55 years; and
 - (i) on or after the 30th November, 1966, and
 - (ii) before the 23rd February 1987; or
 - (b) retire from the public service after the 23rd February, 1987

(5) Where an employee has qualified for the payment of a pension under subsection (3) he may, at the time when payment is granted under that subsection, be paid at the date of his qualification for pension, that pension together with any additional benefits that he would have received had he qualified under subsections (1) and (2); and any such additional benefits are payable out of moneys voted by Parliament for the purpose.

8. The pension which may be granted to an employee who on retirement is qualified for a pension under this Act shall be at the annual rate of one six-hundredths of his pensionable emoluments for each complete month of his pensionable service.

Rate of pension.

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Gratuity and reduced pension. 1963-21.

9. (1) Any employee to whom a pension is granted under this Act, may, at his option exercisable in accordance with this section, be paid in lieu of such pension, a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and one half times the amount of the reduction so made in the pension.

(2) The option referred to in subsection (1) shall be exercisable not later than the day immediately preceding the date of such employee's retirement; but if the employee does not exercise the option before such day, the Minister may, if it appears to him in all the circumstances equitable so to do, allow him to exercise the option at any time between the date of his retirement and the actual date of award of pension under this Act.

(3) Where an employee has exercised the option, his decision shall be irrevocable as far as concerns any pension to be granted to him under this Act.

1979-16.

(4) Notwithstanding subsection (1), the Minister may, where an employee fails to exercise his option in accordance with subsection (2), grant a gratuity and a reduced pension as provided in subsection (1) as if the employee had exercised his option.

Circumstances in which gratuity may be granted. 1971-13.

10. (1) Where a person who on or before the appointed day is an employee and is otherwise qualified for a pension but

- (a) has been employed in the public service for less than 10 years but for 5 years or more; and
- (b) retires because of ill-health or injuries received in the actual discharge of his duties, such injuries not being attributable to the employee's own misconduct or negligence

the Minister responsible for Finance may grant to such employee on retirement a gratuity not exceeding 5 times the annual amount of pension which, if there had been no qualifying period, might have been granted to him under section 8.

(2) Where a person becomes an employee after the appointed day, the Minister responsible for Finance may grant to such employee on retirement after the age of 60 years or on retirement at any age because of ill-health or injuries received in the actual discharge of his duties, such injuries not being attributable to the employee's own misconduct or negligence

- (a) in the case of a person employed in the public service for less than 10 years but for 5 years or more, a gratuity

equivalent to 5 times the annual amount of pension which, if there had been no qualifying period and but for the provisions of subsection (2) of section 6 might have been granted to him under section 8; and

(b) in the case of a person employed in the public service for 10 years or more, a gratuity equivalent to the average pensionable emoluments of such employee over a period of 3 years immediately preceding retirement or his attaining the age of 60 years, whichever is the earlier.

(3) Where a person who becomes an employee after the appointed day retires from the public service before attaining the age of 60 years the Minister responsible for Finance may grant to that person a gratuity calculated in accordance with paragraph (a) or (b) of subsection (2), whichever is applicable, but payment thereof shall be suspended until the person attains the age of 60 years or is disabled through injury or ill-health or dies. 1987-1.

10A. (1) Where the temporary employment of a person is terminated after not less than 2 years of service, the Minister may, in any case he considers appropriate, authorise the payment of compensation to that person. Compensation and effect of payment. 1978-41.

(2) Compensation under subsection (1) is payable out of moneys voted for the purpose by Parliament.

(3) Where a period of temporary service in respect of which compensation is paid under this section is followed by a period of pensionable service, that temporary service shall not be taken into account as pensionable or qualifying service.

10B. (1) The provisions of

(a) sections 6(2), 10(2) and (3) and 11(2) shall not apply to

(i) casual employees who are appointed as public officers by virtue of the provisions of the *Civil Establishment (Amendment) Act, 1998*; Right to pensions etc. 1998-29.

1998-28.

(ii) casual employees who are appointed to an unestablished office by virtue of the provisions of the *Civil Establishment (Amendment) Act, 1998*;

(iii) those persons who, at the commencement of this Act, are public officers or public employees and who were employed as casual employees; and

(b) sections 7, 8 and 9 shall be deemed to have always applied for the purposes of computing the pensions, gratuity and other allowances of the employees referred to in paragraph (a).

(2) Subsection (1) shall apply for the purposes of computing the pensions, gratuity and other allowances of an employee who retired after 31st December, 1997 and before the appointed day and that person shall be entitled to receive the difference between any sum paid to him and any greater sum to which he may be entitled by virtue of subsection (1).

(3) For the purposes of subsection (2), "appointed day" means such day as the Minister may by order appoint.

Determina-
tion of
Employees
length of
service.

11. (1) The following provisions of this section shall have effect for the purpose of determining the length of an employee's service

(a) employment for 220 days or more in any year including bank holidays and days on leave with pay, but excluding Sundays, shall be deemed to be a complete year (or 12 months) of pensionable service;

(b) (i) where an employee has been employed for less than 220 days in any year or years, then, for the purposes of this section, account shall be taken of such employment and the total number of days for which the employee has been so employed shall be ascertained and the equivalent number of

complete years and months (if any) of pensionable service shall be determined in accordance with the provisions of paragraph (a);

(ii) in determining length of service under the provisions of sub-paragraph (i) 19 days shall be deemed to be 1 month and any fractional part of a month shall be disregarded;

(c) an employee's service shall, subject to the provisions of section 12, be deemed to have commenced on the day on which he was first employed in the public service.

(2) In determining the length of the employee's service for the purpose of this Act, service after the age of 60 years shall not be taken into account.

(3) Where

(a) a period of local government service which is pensionable under the *Local Government Casual Employees (Pensions) Regulations, 1965*, is; or 1967-24.
L.N. 46/
1965.

(b) a period of service in the employment of the Commissioners of Highways for any of the parishes of Saint Andrew, Saint Joseph, Saint Lucy or Saint Michael was,

within 1 year from the last day of such service followed by service as a casual employee, that period of service may, with the approval of the Minister, be taken into account as pensionable service.

(4) Where any such period of service is taken into account under subsection (3) as pensionable service, the Interim Commissioner for Local Government shall, on the demand of the Accountant-General, pay into the Consolidated Fund a sum which bears the same proportion to any pension, gratuity or other allowance granted to the employee as the employee's service with the said Interim Commissioner bears to his total pensionable service. 1964-45.

(5) For the purposes of this section, the expression "local government service" means service under the Interim Commissioner for Local Government, service under a Council, and service under a Vestry or other body specified in the Ninth Schedule to the *Local Government Act, 1958*.¹ 1964-45.

¹Act 1958-55. The Ninth Schedule is not reprinted in these Revised Laws.

Continuity
of service.

12. (1) For the purpose of determining an employee's length of service only continuous service shall, subject to this section, be taken into account as pensionable service.

(2) Any break in the service of an employee which is caused by ill health or by his temporary suspension because of the shortage of work, shall, subject to the provisions of subsection (3), be disregarded.

(3) A break in the service of an employee caused by temporary suspension arising from the shortage of work shall only be disregarded if the employee returns to work as soon as requested so to do by the head of the department in which he was employed before he was suspended or by someone acting on his behalf: but the failure of an employee to return to work when requested as aforesaid shall not constitute a break in his service where

(a) the Head of the department is satisfied on medical evidence that the failure was caused by ill health; or

(b) the employee is employed in another department.

(4) Where an employee has been temporarily suspended because of a shortage of work in a department and the services of such employee are subsequently required in the department, the Head of the department shall, at least 7 clear days before the day on which the services of the employee are required, send a letter by registered post to the employee summoning him to return to work on the required day.

1976-11. (5) A break in service of an employee who has been suspended for a breach of discipline shall not be disregarded if the employee fails, without good cause, to return to work on the first working day following the expiration of the period of his suspension.

1964-45. (6) For the purposes of this section the expression "continuous service" means service in each period of 12 calendar months commencing from the day on which the employee was first employed in the public service.

1987-1. (7) Notwithstanding subsections (1) to (6), an employee who leaves the public service before attaining the age of 55 years, whether or not he has completed 10 years pensionable service, is entitled to have his service treated as continuous if he is re-employed in the service for a period of not less than 5 consecutive years and it is immaterial that his leaving the public service or the re-employment occurred before this subsection came into operation.

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13. (1) Where an employee has had a period of not less than three years pensionable service immediately preceding the date of his death or retirement, as the case may be, then for the purpose of computing—

Emoluments to be taken for computation of pensions and gratuities.

- (a) the amount of the pension or gratuity which may be granted under this Act to any such employee; or
 - (b) the amount of the gratuity which may be granted under section 16 to the legal personal representative of any such employee; or
 - (c) the amount of the pension which may be granted under section 17 to the dependants of any such employee,
- the provisions of subsections (2) to (5) shall have effect.

(2) In the case of an employee who during the period of three years immediately preceding the date of his retirement or death—

- (a) has been employed for not less than two hundred and twenty days in each year; and
- (b) has held the same form of employment; or
- (c) has been transferred from one form of employment to another without any change of emoluments other than the grant of any scale increment,

the emoluments to be taken shall be the emoluments enjoyed by such employee in respect of his employment for two hundred and twenty days in the year immediately preceding the date of his retirement or death.

(3) In the case of an employee who during the period of three years immediately preceding the date of his retirement or death—

- (a) has held the same form of employment; but
- (b) has been employed for less than two hundred and twenty days in any year or years during such period,

such employee shall be deemed to have been employed for two hundred and twenty days in each year during such period and the emoluments to be taken shall be the emoluments which such employee would have enjoyed in respect of employment for two hundred and twenty days in the year immediately preceding his retirement or death.

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(4) In the case of an employee who during the period of three years immediately preceding the date of his retirement or death—

- (a) has been employed for not less than two hundred and twenty days in each year of such period; but
- (b) has been transferred from one form of employment to another with a change in emoluments,

the emoluments to be taken shall be the emoluments which the employee would have enjoyed in respect of employment for two hundred and twenty days at the average rate of pay actually received by him during such period of three years.

(5) In the case of an employee who during the period of three years immediately preceding the date of his retirement or death—

- (a) has been transferred from one form of employment to another with a change of emoluments; and
- (b) has been employed for less than two hundred and twenty days in any year or years during such period,

such employee shall be deemed to have been employed for two hundred and twenty days in each year during such period and the emoluments to be taken shall be one-third of the total emoluments which the employee would have enjoyed if he had been so employed at the average rate of pay actually received by him during such period of three years.

(6) Where an employee has had a period of less than three years pensionable service immediately preceding the date of his retirement or death, then, for the purposes set out in paragraphs (a), (b) and (c) of subsection (1)—

- (a) the employee shall be deemed to have been employed for two hundred and twenty days in each year during the period of three years immediately preceding his retirement or death; and
- (b) the emoluments to be taken shall be one-third of the total emoluments which the employee would have enjoyed if he had been so employed at the average rate of pay received by him in respect of his actual employment during the period of three years aforesaid.

14. (1) A pension or gratuity granted under this Act shall not be assignable or transferable except for the purpose of satisfying

(a) a debt due to the Crown; or

(b) an order of any court for the periodical payment of sums of money towards the maintenance of the wife or former wife or minor child of the employee to whom the pension or gratuity has been granted.

Pensions
etc., not to
be assignable.
L.N. 168/
1967.

(2) A pension or gratuity granted under this Act shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever except a debt due to the Crown.

L.N. 168/
1967.

15. *Repealed by 1989-9.*

16. (1) Where an employee who has been in the public service for five years or more dies, the Minister responsible for Finance may grant to his legal personal representative

(a) in respect of a person who is an employee on or before the appointed day, a gratuity of an amount not exceeding such employee's annual pensionable emoluments at the date of his death; and

(b) in respect of a person who becomes an employee after the appointed day a gratuity of an amount not exceeding the amount such employee would have been granted under paragraph (a) or (b), as the case may be, of sub-section (2) of section 10, as if he had retired at the date of his death.

Gratuity
where
employee
dies in
service.
1971-13.

(2) Where any such employee to whom a pension or gratuity has been granted under this Act dies after retirement from the public service, and the sums paid or payable to him at his death on account of any pension or gratuity in respect of such service are less than the pensionable emoluments enjoyed by such employee at the date of his retirement, it shall be lawful for the Minister to grant to his legal personal representative a gratuity equal to the deficiency.

(3) For the purposes of this section, where an employee dies during a period of absence from work through illness, he shall be deemed to have died in the public service and references in section 13 and subsection (1) to "date of death" shall be construed as references to the date in respect of which the employee last received pay.

1967-3.

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Pensions to dependants where employee killed on duty.

17. (1) Where an employee dies while in the public service as a result of injuries received

- (a) in the actual discharge of his duty; and
- (b) without his own default; and

- (c) on account of circumstances specifically attributable to the nature of his duty,

then, in addition to the grant, if any, made under section 16 to the legal personal representative of such employee, the Minister may, subject to subsection (2), grant

- (i) if the deceased employee leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or one hundred dollars a year, whichever is the greater;
- (ii) if the deceased employee leaves a widow to whom a pension is granted under paragraph (i) and a child or children, a pension in respect of each child, until such child attains the age of eighteen years, of an amount not exceeding one-eighth of the pension prescribed under paragraph (i);
- (iii) if the deceased employee leaves a child or children but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of eighteen years, of double the amount prescribed by paragraph (ii);
- (iv) if the deceased employee leaves a child or children and a widow to whom a pension is granted under paragraph (i), and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of eighteen years, of double the amount prescribed in paragraph (ii);
- (v) if the deceased employee does not leave a widow, or if no pension is granted to his widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
- (vi) if the deceased employee does not leave a widow or mother, or if no pension is granted to his widow or mother, and if his father was wholly or mainly dependent on him for his support, a pension to the father, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow; 1962-11.
- (vii) if the deceased employee does not leave a child or children eligible for a pension under this section, and if his brother or sister was wholly or mainly dependent on him for support, a pension to any brother or sister, while 1962-11.

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of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted under paragraphs (ii) and (iii).

(2) A pension shall not be payable under subsection (1) at any time in respect of more than six children.

(3) In the case of a pension granted under paragraph (v) of subsection (1), if the mother is a widow at the time of the grant of the pension and subsequently remarries such pension shall cease as from the date of re-marriage; and if it appears to the Minister at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Minister may determine.

(4) A pension granted to a female child under subsection (1) shall cease upon the marriage of such child under the age of eighteen years.

(5) For the purposes of this section the expression "child" includes—

- (a) a posthumous child;
- (b) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased employee for support; and
- (c) an adopted child adopted in a manner recognised by law before the date of the injury and dependent as aforesaid.

(6) This section shall not apply in the case of the death of an employee if his dependants as defined in the National Insurance and Social Security Act are entitled to compensation under that Act.¹

Cap. 47.

Records to be kept of service of casual employees.

18. From and after the 1st February, 1962,² it shall be the duty of the Head of every department to keep or cause to be kept, in such form as the Minister may from time to time direct, records of the service of every casual employee employed in his department.

¹ The Workmen's Compensation Act, 1963, although repealed by the National Insurance and Social Security Act, 1966-15, s. 51, and thus not printed in the Revised Laws, continues to apply to certain cases. See new Cap. 47.

² Being the date of commencement of the Act.

19. (1) This Act shall apply

Application
of Act.

- (a) to every employee who is first employed in the public service after the 1st February, 1962¹ and
- (b) to every employee who is employed in the public service at that date unless not later than twelve months after that date or within such further period as the Minister may in any special case allow, such employee gives notice in writing to the Head of his department that he does not wish the provisions of this Act to apply to him.

(2) This Act shall not apply to any person to whom the Pensions Act, the Public Employees Pensions Act or the Public Employees Pension Act, 1937,² apply.

Cap. 25.
Cap. 30.
1937-5.

SCHEDULE

s.2 (1).

Scheduled Authorities or Bodies

1989-9.

The Agricultural Credit Bank (established by the *Agricultural Credit Bank Act*).

1964-45.
Cap. 321.

The Board of Management of a Secondary School established by section 16 of the *Education Act*.

Cap. 41.

The Board of Management of a tertiary institution established by section 28 of the *Education Act*.

Cap. 41.

The Governing Body of a Secondary School as defined in the Teachers' (Secondary Schools) Pensions Act.

Cap. 56.

The Housing Authority (constituted by the Housing Act).

Cap. 226.

¹Being the date of commencement of the Act.

²This Act, repealed except in so far as it relates to certain public employees, is not printed in the Revised Laws.