

CHAPTER 22

EXPATRIATE PENSIONS

ARRANGEMENT OF SECTIONS

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CHAPTER 22

Expatriate Pensions

An Act to alter the Constitution to enable payment of certain expatriate public officers' pensions to be assumed by the Government of the United Kingdom pursuant to an agreement between the Government of the United Kingdom and the Government of Barbados.

1980—20.
1983—40.

[8th June, 1984] Commence-
ment.

1. This Act may be cited as the *Expatriate Pensions Act*. Citation.

2. For the purposes of this Act, Definitions.

Agreement" means the agreement entered into between the Government of the United Kingdom and the Government of Barbados concerning the payment of expatriate public officers' pensions, the text of which agreement is contained in the Schedule; Schedule.

"expatriate public officer" means an officer within the meaning of Article 1 of the Agreement.

3. This Act is for the purpose of altering sections 103 and 104 of the *Constitution* to the extent necessary to give the necessary effect to the Agreement. Purpose.

4. Notwithstanding section 103 and 104 of the *Constitution*, pensions payable to expatriate public officers cease to be charged on the Consolidated Fund upon assumption of the payment of pensions from the Government of Barbados in pursuance of the Agreement. Transfer of payment of pensions.

5. The Agreement has the force of law in Barbados from 8th June, 1984. Effect of Agreement.

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SCHEDULE

(Section 2)

AGREEMENT BETWEEN THE GOVERNMENT OF
BARBADOS AND THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND CONCERN-
ING PUBLIC OFFICERS' PENSIONS

8th June, 1984.

The Government of Barbados 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 1

INTERPRETATION

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 Barbados;
- (c) "the Barbados element" in relation to a pension (other than compensation or interest thereon payable under the Barbados (Overseas Officers Retirement and Compensation) Regulations, 1968 or a widows' or orphans' pension awarded under the 1928 Act) means:
 - (i) in respect of a pension arising from death resulting from an injury on duty, or a pension or additional pension arising from such an injury, 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 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 Barbados which have been taken into account in determining the amount of that pension;
- (d) "inducement allowance" means any inducement allowance enjoyed by an officer under the Overseas Service (Barbados) Agreement 1962, or any agreement or arrangement amending or replacing the same;
- (e) "officer" means an officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the Government of Barbados signed at London on 27 June 1961 and at Barbados on 13 September 1961 (hereinafter referred to as "the Public Officers Agreement") applies or applied and who was not a citizen of Barbados on 1 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 Barbados at the time of his retirement or death, as the case may be;
- (f) "other public service" means public service not under the Government of Barbados;
- (g) "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 Barbados to or in respect of any officer, or to the widow or child of any officer or to his legal personal representative;
- (h) "pensionable emoluments"
 - (i) in respect of public service under the Government of Barbados, includes:
 - (aa) salary;
 - (bb) inducement allowance;
 - (cc) personal allowance;
 - (dd) house allowance;
 - (ee) fees paid by the Public Treasury for service required or authorised by law to be performed by the holder of a pensionable office;

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(ff) the special allowance paid to the officer for the time being designated Head of the Civil Service,

but does not include duty allowance, entertainment allowance or any other emoluments whatever;

(ii) in respect of other public service means emoluments which count for pension in accordance with the law or regulations in force in such service;

(i) "pensions laws" means:

(i) in relation to pensions other than widows' and orphans' pensions, any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service and in force in Barbados at any time prior to 16 February 1972 and enacted prior thereto;

(ii) in relation to widows' and orphans' pensions, the *Widows' and Orphans' Pension Act, 1928*, and any amendments thereto in force at any time prior to 16 February 1972 and enacted prior to that date (in this Agreement referred to as the 1928 Act) and the *Widows' and Children's Pensions Act 1963* and any amendments thereto in force at any time prior to 16 February 1972 and enacted prior to that date (in this Agreement referred to as the 1963 Act); 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 Barbados for the purposes of this Agreement;

(j) "public service" means:

(i) service in a civil capacity under the Government of Barbados or any other country or territory in the Commonwealth;

(ii) service under the East Africa High Commission, the East African Common Services Organisation, the East African Posts and Telecommunications Administration, the East African Railways and Harbours Administration, the East African Community, 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 Overseas Superannuation Scheme; or

- (bb) under any Act 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 Barbados to be public service for the purposes of this Agreement;
- (v) except for the purposes of computation of a pension, and of determination of the maximum pension grantable, service as a Governor in respect of which a pension may be granted under the *Overseas Pension 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;
- (vii) service in the service of the Interim Commissioner for the West Indies;
- (k) "relevant service" means public service in a civil capacity under the Government of Barbados on or after 16 October, 1961;
- (l) "widows' and orphans' pensions" means pensions payable under the 1928 Act or the 1963 Act.

Article 2

ASSUMPTION OF RESPONSIBILITY BY THE GOVERNMENT OF THE UNITED KINGDOM

As from the appointed day the Government of the United Kingdom shall assume from the Government of Barbados 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**OBLIGATIONS OF THE GOVERNMENT OF THE
UNITED KINGDOM**

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 persons concerned in accordance with the principles and rules contained in the pensions laws with 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 sub-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 elects to have any provision applied to him, that provision shall be taken to be more favourable to him;
- (c) that if the Government of Barbados should be adjudged by the order of a competent court of law having jurisdiction in Barbados 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 the United Kingdom shall repay to the Government of Barbados 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 payment of the same pension to or in respect of that person which would otherwise fall to be made by them under this Agreement.

Article 4**OBLIGATIONS OF THE GOVERNMENT
OF BARBADOS**

- (1) The Government of Barbados 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 under the 1928 Act) awarded before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Barbados element of such pension;
 - (ii) in respect of any pension (other than a widows' and orphans' pension awarded under the 1928 Act) awarded on or after the appointed day to or in respect of an officer, that part of the sum which would represent the Barbados 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.
- (2) The sums payable under sub-paragraph (1)(c)(i) and (1)(c)(ii) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Barbados and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Barbados would have received in respect of the Barbados 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.

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Article 6**MODIFICATION OF PREVIOUS AGREEMENTS**

- (1) On and after the appointed day the provisions of the Overseas Service (Barbados) Agreement 1962 and any agreement or arrangement amending or replacing the same and any other agreement or arrangement relating to the reimbursement of the Government of Barbados 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 4, 5, 6, 7 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) of the Public Officers 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 Barbados 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**¹ ENTRY INTO FORCE**

Each of the Parties of this Agreement shall notify the other Party in writing as soon as it has completed the domestic legislation and other arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the date of the later of these two notifications.

¹ This Agreement came into force on 8th June, 1984.

Article 9**CITATION**

This Agreement may be cited as the Public Officers' Pensions (Barbados) Agreement 1983.

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

Done in duplicate at Bridgetown this 23rd day of March, 1983.

For the Government of Barbados:

Louis Tull

For the Government of the
United Kingdom of Great
Britain and Northern Ireland:
Dunrossil .