
CHAPTER 303

THE OVERSEAS OFFICERS' PENSIONS ACT

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Agreement to have the force of law.
4. Pensions Act no longer applicable.

SCHEDULE.

OVERSEAS OFFICERS' PENSIONS

(9th October, 1976.)

11/1976.
19/1977.

1. This Act may be cited as the Overseas Officers' Pensions Act. **Short title.**

2. In this Act— **Interpretation.**

"The Agreement" means the Agreement in the Schedule to this Act.

3. The terms of the Agreement shall have the force of law as if enacted in this Act. **Agreement to have the force of law.**

4. From and after the appointed day, the provisions of the Pensions Act shall not apply to persons covered by the Agreement and the provisions of that Act shall no longer be binding on the Government in respect of such pensions. **Pensions Act no longer applicable. Cap. 311.**

SCHEDULE

(Section 2)

Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda Concerning Public Officers' Pensions.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda 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 Faculty of Actuaries in Scotland;

(b) "the Antigua and Barbuda element" in relation to a pension (other than compensation or interest thereon payable under the Antigua (Compensation and Retiring Benefits) Order 1967) means:

- (i) in respect of a pension arising from death resulting from an injury on duty or from contracting a disease on duty, 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 the 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 Antigua and Barbuda which have been taken into account in determining the amount of that pension;

(c) "the appointed day" means the day mutually arranged between the Government of the United Kingdom and the Government of Antigua and Barbuda.

(d) "inducement allowance" means any inducement allowance enjoyed by an officer under the Overseas (Antigua) Agreement 1961, 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 Antigua and Barbuda signed at London on 23 February 1967 and at Antigua and Barbuda on 25 February 1967 (hereinafter referred to as "the Public Officers Agreement") applies or applied: or an officer who holds

or has held an office in the public services jointly of Antigua and Barbuda and of one or more other countries or territories in the Windward Islands or the Leeward Islands and for any part of whose pension the Government of Antigua and Barbuda have accepted responsibility and to whom that Agreement would have applied under the pension laws and had he been appointed to the public service of Antigua and Barbuda;

(f) "other public Service" means public service not under the Government of Antigua;

(g) "pension" means any pension, gratuity, compensation and interest thereon, or any retiring allowance or other like benefit, or any increase of pension, payable under the pensions laws by the Government, of Antigua to or in respect of any officer;

(h) "pensionable emoluments"

(i) in respect of public service under the Government of Antigua and Barbuda, includes

(a) salary;

(b) inducement allowance;

(c) personal allowance;

(d) house allowance; and

(e) in the case of a teacher includes any charge pay that may be paid to such teacher when in charge of a Government elementary school but does not include duty allowance or entertainment allowance or any other emoluments whatever;

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

(i) "pension laws" means:

(i) any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service and in force in Antigua and Barbuda at any time prior to 1st April 1971 and enacted prior to that date; and

(ii) the Antigua (Compensation and Retiring Benefits) Order 1967; and

(iii) any other law, regulation or administrative direction accepted by the Government of the United Kingdom and the Government of Antigua and Barbuda for the purposes of this Agreement;

(j) "public service" means:

(i) service in a civil capacity under the Government of Antigua and Barbuda or any other country or territory in the Commonwealth:

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- (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 Railway Corporation;
 - (iii) service which is pensionable:
 - (a) under the Overseas Superannuation Scheme; or
 - (b) under any Acts relating to the superannuation of teachers in the United Kingdom; or
 - (c) under a local authority in the United Kingdom; or
 - (d) under the National Health Service for the United Kingdom;
 - (iv) any other service accepted by the Government of the United Kingdom and the Government of Antigua and Barbuda 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 under a Government 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 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 under the Government of Antigua and Barbuda on or after 27 February 1967;
- (l) "the taxation element" means the sum accepted by the two Governments as being equivalent to the proceeds of income tax or any similar tax received by the Government of Antigua and Barbuda on any sums which are reimbursable in accordance with sub-paragraph (1) (d) of Article 3.

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 Antigua and Barbuda 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

(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 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 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 or in respect of any officer different provisions from those contained in the pension 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 Antigua and Barbuda should **be adjudged** by the order of a competent court of law having jurisdiction in Antigua and Barbuda to be liable to pay to or in respect 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 Antigua and Barbuda 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 Antigua and Barbuda in accordance with such procedure as may be mutually arranged between the two Governments, the aggregate amount, less the taxation **element**, of the following payments due on or after 1 April 1971, being amounts **due** under the pensions laws, and made by the Government of Antigua and Barbuda to or in respect of officers:

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- (i) the full cost of payments representing that proportion of a pension or gratuity payable to or in respect of an officer which accrues from public service under the Government of Antigua and Barbuda before 27 February 1967;
- (ii) such proportion (if any) of the cost of payment representing that part of the pension or gratuity payable to or in respect of an officer which accrues from public service under the Government of Antigua and Barbuda on or after 27 February 1967, as is attributable to his pensionable inducement allowance;
- (iii) the full cost of payments representing compensation to an officer.
- (2) For the purposes of sub-section (1) (*d*) of this Article:
- (a) the proportion of a pension or gratuity which accrues from public service under the Government of Antigua and Barbuda before 27 February 1967 is that proportion which the total pensionable emoluments received by an officer from his public service under the Government of Antigua and Barbuda prior to 27 February 1967 bears to his total pensionable emoluments received from all his public service under that Government;
- (b) subject to sub-paragraph (c) of this paragraph the proportion of a pension or gratuity which is attributable to inducement allowance is that proportion which the total pensionable inducement allowance received by an officer during his relevant service bears to the total pensionable emoluments received by him from all his public service under the Government of Antigua and Barbuda;
- (c) in respect of a pension arising from death resulting from an injury on duty or from contracting a disease on duty 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, the proportion which is attributed to inducement allowance is that proportion of the pension which the rate of the officer's pensionable inducement allowance at the date he received the injury or contracted the disease bears to the rate of his total pensionable emoluments at that date.

Article 4

Obligations of the Government of Antigua and Barbuda

- (1) The Government of Antigua and Barbuda undertake:

(a) that they shall remain responsible for any instalments of pension granted to or in respect of an officer which remains 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 to or in respect of an officer 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 awarded before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Antigua and Barbuda element of such pension;
- (ii) in respect of any 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 Antigua and Barbuda element of such pension if the 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% of the officer's pensionable emoluments, other than inducement allowance earned during that part of his relevant service which occurs on or after the appointed day;

(d) that they shall whenever requested to do so by the Government of the United Kingdom, supply to that Government such information in connection with the operation of the arrangements contained in this Agreement as may be specified in such request.

(2) The sum payable under sub-paragraphs (1) (c) (i) and 1 (c) (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 Antigua and Barbuda and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Antigua and Barbuda would have received in respect of the Antigua and Barbuda element of the pension.

Article 5

Modification of Previous Agreements

(1) On and after the appointed day the provisions of the Overseas Service (Antigua) Agreement 1961, and any agreement or arrangement amending or replacing the same, relating to the reimbursement of the Government of Antigua and Barbuda 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 or after the appointed day the provisions of Articles 3, 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) and Article 8(3) of the Public Officers Agreement shall cease to apply to or in respect of officers to whom this Agreement applies.

Article 6

Modification of this Agreement

If the Government of the United Kingdom and the Government of Antigua and Barbuda 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 7

Entry into Force

Each of the Parties to 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.

Article 8

Citation

This Agreement may be cited as the Public Officers' Pensions (Antigua and Barbuda) Agreement 1975.

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

Done in duplicate at Antigua this 14th day of April 1976 (in the English language).

For the Government of Antigua
and Barbuda

R. H. Harris.

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

R. F. Gillett.
