

CHAPTER 265

THE TRANSFERRED FEDERAL OFFICERS (DEPENDANTS) PENSIONS ACT

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CHAPTER 265

TRANSFERRED FEDERAL OFFICERS
(DEPENDANTS) PENSIONS

4 of 1965

An Act to provide for the making of payments to the Government of Zambia by certain public officers who transferred from the service of the Government of the former Federation of Rhodesia and Nyasaland; to provide for the payment of pensions and other benefits to the

dependants of such officers in the event of death; and to provide for matters incidental to or connected with the foregoing.

[15th January, 1965]

1. This Act may be cited as the Transferred Federal Officers (Dependants) Pensions Act. Short title

2. (1) In this Act, unless the context otherwise requires- Interpretation

"beneficiary" means a legitimate or legitimated son or daughter (including a posthumous child, stepchild, or child legally adopted) of an officer or pensioner, if the son or daughter is under the age of twenty-one years and- Cap. 279
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(a) in the case of a son, is not under the age of eighteen years;

(b) in the case of a daughter, has not been married and is not under the age of eighteen years;

"child" means an unmarried legitimate or legitimated son or daughter (including a posthumous child, step-child or child legally adopted) under the age of eighteen years, of an officer or pensioner;

"deficit" means the difference between-

(a) the aggregate of the annual rate of the pensions which would have been payable to a widow, child or beneficiary, as the case may be, of a guaranteed officer under the Widows and Orphans Pension Act or the scheme had he died immediately before the date of transfer from the Government or the Government of the former Protectorate of Nyasaland to the service of the Government of the former Federation of Rhodesia and Nyasaland; and

(b) the aggregate of the annual rate of the pensions which at his death are payable to a widow, child or beneficiary, as the case may be, of a guaranteed officer under the Widows and Orphans Pension Act or the scheme:

Provided that in determining the deficit no account shall be taken of any additional pension payable to a widow, child or beneficiary, as the case may be, by reason of voluntary payments made under the Widows and Orphans Pension Act or the scheme;

"emoluments factor" means the aggregate of the pensionable emoluments of an officer during his pensionable service divided by the aggregate of his emoluments accepted as pensionable during his pensionable employment;

Provided that, where part only of any service in a civil

capacity is taken into account as pensionable service, a proportionate part only of the aggregate emoluments during that service shall be taken into account as pensionable emoluments;

"established officer" means any officer other than a probationer;

"final pensionable emoluments" means the emoluments accepted by the Government for the purpose of calculating an officer's pension or which would have been accepted by the Government for the purpose of calculating such officer's pension had he retired at the date of his death;

"the Government" means the Government of Zambia, or, in respect of any period before the 24th October, 1964, the Government of the former Protectorate of Northern Rhodesia;

"guaranteed officer" means an officer or pensioner who was appointed to the service of the Government of the former Federation of Rhodesia and Nyasaland on transfer from the service of the Government or the Government of the former Protectorate of Nyasaland;

"officer" means a person who-

(a) on or after the 1st October, 1963, transferred from the service of the Government of the former Federation of Rhodesia and Nyasaland to the Northern Rhodesia Civil Service (Local Conditions) and in respect of any period after such transfer contributed to the Northern Rhodesia Civil Service (Local Conditions) Pension Fund; and

(b) subsequently transferred from the Northern Rhodesia Civil Service (Local Conditions), or the Zambia Civil Service (Local Conditions), as the case may be, to other public service in the former Protectorate of Northern Rhodesia or in Zambia in circumstances in which he qualified on retirement for the award of a pension under Part II of the Third Schedule to the European Officers' Pensions Act;

"pension" means an annual pension payable during the lifetime of the recipient unless under this Act it is payable for a shorter period;

"pensionable employment" means the period of employment under the Government and any other Governments and administrations under which an officer has served and which may be taken into account in computing his pension;

"pensionable service" means service from the date an officer transferred from the Northern Rhodesia Civil Service (Local Conditions) or the Zambia Civil Service (Local Conditions), as the case may be, until the officer either retired on pension or transferred to other service which falls to be included in his period of pensionable employment;

"pensioner" means a former officer who has retired and is in receipt of, or is qualified for the award of, a pension under the European Officers'

Pensions Act;

"Permanent Secretary" means the Permanent Secretary, Ministry of Finance;

"probationer" means an officer who has not been confirmed in his appointment;

"the scheme" has the meaning assigned to it by the Widows and Orphans Pension Act.

(2) For the purpose of this Act a person who, immediately before his App. 2 transfer to the Northern Rhodesia Civil Service (Local Conditions), was a seconded officer within the meaning of section 20 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963, shall be deemed to have transferred from the service of the Government of the former Federation of Rhodesia and Nyasaland.

3. (1) An officer shall pay to the Government two and one-half per Payments to the centum of the pensionable emoluments payable to him after his transfer Government from the Northern Rhodesia Civil Service (Local Conditions) or the Zambia Civil Service (Local Conditions), as the case may be.

(2) The payment of amounts payable by an officer under subsection (1) shall ordinarily be effected by deducting such amounts from any pensionable emoluments payable to the officer.

(3) If after an officer's last day of pensionable service under the Government any amount which remains unpaid is not paid within thirty days of the officer being notified of that amount, interest at the rate of five per centum per annum shall be charged thereon until such time as the debt is discharged or the officer dies, whichever occurs sooner.

(4) Any amount including interest payable to the Government under this section which remains unpaid shall be deducted in such manner as the appropriate Service Commission shall determine from any pension or other benefit which would otherwise be payable under this Act to the officer, his estate or dependants.

(5) All amounts paid to the Government under this section shall be paid into the general revenues of the Republic.

4. (1) There shall be paid to a probationer who ceases to be employed by the Government on pensionable terms before being confirmed in his appointment the amount of any payments made by him to the Government under section *three*.

Refunds of
payments

(2) Subject to the provisions of this Act, on the death of a probationer, there shall be paid to the widow or child of such probationer in accordance with the provisions of subsection (3), or if there is no widow or child, to the estate of such probationer, the amount of any payments made by such probationer to the Government under section *three*.

(3) Any amount payable under subsection (2) to a widow or child shall be paid-

(a) if there is a widow and no child, to the widow;

(b) if there is a widow and one child or more than one child, or no widow but one child or more, to such person or persons and in such proportions as shall from time to time be determined by the appropriate Service Commission.

5. (1) Subject to the provisions of this Act, if an established officer dies and leaves a widow there shall be paid to the widow a pension equal to the emoluments factor multiplied by forty per centum of the total of-

Pension for
widows

(a) the product of one seven hundred and twentieth of his final pensionable emoluments multiplied by the number of completed months of pensionable employment; and

(b) seventy per centum of the product of one seven hundred and twentieth of his final pensionable emoluments multiplied by the number of complete months from the date of such officer's death to the date of the sixtieth anniversary of his date of birth.

(2) Subject to the provisions of this Act, if a pensioner dies and leaves a widow, there shall be paid to the widow a pension equal to the pension which would have been payable to the widow under subsection (1) had the officer died on his last day of pensionable service.

(3) Subject to the provisions of this Act, a pension payable under this section shall be paid from the day following the date of death of the officer or pensioner, as the case may be.

(4) Any pension payable under this section shall cease on the date on which the widow remarries.

(5) If, in the opinion of the appropriate Service Commission, the widow of an officer or pensioner is cohabiting with any person the appropriate Service Commission may, if it thinks fit, terminate the pension payable to her as from a date determined by the appropriate Service Commission:

Provided that, if the appropriate Service Commission is satisfied at a subsequent date that the cohabitation has come to an end and is of the opinion that payment of the pension should be resumed, the pension shall be restored as from a date determined by the appropriate Service Commission.

6. (1) When an officer or a pensioner who was married under a system permitting of polygamy dies, the pension or other benefit payable under section *four* or *five* shall be calculated as if there had been only one widow of that officer or pensioner, as the case may be, and shall be divided equally into the same number of parts as the number of widows surviving at the date of the death of the officer or pensioner.

Payments of pension or other benefits to widows of a deceased person who was married under a system permitting of polygamy

(2) Each surviving widow of the deceased officer or pensioner, as the case may be, shall be paid one part of the pension or other benefit calculated in accordance with subsection (1).

(3) A pension payable to a widow under this section shall cease on the date on which she remarries or dies or, in the opinion of the appropriate Service Commission, cohabits with any person, and the pension for the remaining widow or widows, if any, shall not be increased,

7. (1) Subject to the provisions of this Act, if an established officer Pension for or a pensioner dies and leaves a widow and children, there shall be paid children in respect of his children, with effect from the day following the date of his death, a pension equal to the following percentages of the widow's pension calculated under the provisions of section *five*:

- (a) for one child-twenty-five per centum;
- (b) for two children-forty per centum;
- (c) for three children-fifty per centum;
- (d) for four children-sixty per centum;
- (e) for five or more children-sixty-six and two-thirds per centum:

Provided that on the death or remarriage of the widow the pension in respect of the children shall be at the rates specified in subsection (2).

(2) Subject to the provisions of this Act, if an established officer or pensioner dies and leaves no widow but leaves children, there shall be paid in respect of those children, with effect from the day following the date of his death, a pension equal to the following percentages of the pension that would have been payable to his widow under section *five* had he left one:

- (a) for one child-fifty per centum;
- (b) for two children-eighty per centum;
- (c) for three children-one hundred per centum;
- (d) for four children-one hundred and twenty per centum;
- (e) for five or more children-one hundred and thirty-three and one-third per centum.

(3) If a child dies or ceases to be a child within the meaning of this Act, the pension payable under this section shall cease or, if there are

other children, shall be adjusted accordingly.

(4) Any pension payable under this section shall be paid to such person or persons as shall from time to time be determined by the appropriate Service Commission and shall, in accordance with its determination, be paid in respect of one child or apportioned between any two or more of the children.

(5) If the deceased officer or pensioner leaves a widow who does not maintain or deserts or abandons a child of herself and such officer or pensioner, the Permanent Secretary (Establishments) may, with the concurrence of the appropriate Service Commission, direct that such portion of the widow's pension as he thinks fit shall be paid to such person as he may direct and be applied by such person for the benefit of such child.

(6) Notwithstanding any other provision contained in this Act, if a pension is being paid under this Act in respect of a child-

(a) because of the death of the father of that child, no further pension shall be payable under this Act in respect of that child on the death of the step-father of that child;

(b) because of the death of the step-father of that child, no further pension shall be payable under this Act in respect of that child on the death of the father of that child.

8. (1) Subject to the provisions of subsection (2), when an officer or pensioner who was married under a system permitting of polygamy dies, the pension payable under section *seven* in respect of the children shall be calculated on the pension payable as if there had been only one widow. Payments of pension to children of a deceased person who was married under a system permitting of polygamy

(2) The proviso to subsection (1) of section *seven* shall only apply from the date on which the last widow's pension ceases in accordance with the provisions of subsection (3) of section *six*.

9. (1) Subject to the provisions of this Act, if a guaranteed officer dies and he-

Rights of dependants of guaranteed officers

(a) leaves a widow and no child or beneficiary, the following provisions shall apply:

- (i) there shall be paid to the widow the pension payable to her under section *five*;
- (ii) if the pension referred to in sub-paragraph (i) is less than the deficit, there shall be paid to the widow a special pension equal to the difference between that pension and the deficit;

(b) leaves a widow and child and, additionally or alternatively, a beneficiary, the following provisions shall apply:

- (i) there shall be paid-
 - A. to the widow, the pension payable to her under section *five*;
 - B. in respect of the child, if any, the pension payable in respect of him under section *seven*;
- (ii) if the aggregate of the pension or pensions, as the case may be, referred to in sub-paragraph (i) is less than the deficit, there shall be paid to the widow a special pension equal to the difference from time to time between the aggregate and the deficit:

Provided that, if the pension payable to the widow referred to in sub-paragraph (i) ceases to be payable, the provisions of paragraph (c) shall there-after apply in relation to any child or beneficiary;

(c) does not leave a widow but leaves a child and, additionally or alternatively, a beneficiary, the following provisions shall apply:

- (i) there shall be paid in respect of the child, if any, the appropriate pension payable in respect of him under subsection (2) of section *seven*;
- (ii) if the pension referred to in sub-paragraph (i) is less than the deficit, there shall be paid in respect of the child a special pension equal to the difference from time to time between the pension and the deficit;
- (iii) if the pension referred to in sub-paragraph (i) ceases to be payable or if no such pension is payable and there is a beneficiary, there shall be paid in respect of that beneficiary a special pension equal to the

deficit.

(2) Any special pension payable under this section, other than a special pension payable to a widow, shall-

(a) be paid to such person or persons as shall from time to time be determined by the appropriate Service Commission; and

(b) in accordance with the directions of the appropriate Service Commission be paid in respect of one child or beneficiary or apportioned between any two or more children and, additionally or alternatively, beneficiaries.

(3) Any special pension payable to a widow under this section shall cease on the date she remarries.

(4) A widow to whom a pension was payable under this section whose pension ceased on her remarriage shall-

(a) if her husband dies in her lifetime and she is not eligible to receive any pension from the Government in respect of her husband's employment in the service of the Government, be paid the pension which was payable to her before her marriage-

(i) as from the date of the death of her husband; or

(ii) as from the date that any pension payable in respect of the children or beneficiaries of her marriage with the guaranteed officer ceases;

whichever is the later; or

(b) if she becomes entitled, on the death of her husband, to a pension from the Government in respect of her husband's employment in the service of the Government-

(i) if there are children or beneficiaries of her previous marriage who are in receipt of a pension under this Act, be paid the pension to which she becomes entitled on the death of her husband until the pension payable in respect of the children or beneficiaries ceases and shall then elect either to continue to be paid such pension or to be paid in lieu the pension which was payable to her before her remarriage; or

(ii) if there are no such children or beneficiaries of her previous marriage, elect forthwith either to be paid such pension or to be paid in lieu the pension which was payable to her before her remarriage:

Provided that, in the event of a widow electing to be paid the pension which was payable to her before her remarriage in lieu of any pension which may subsequently become due, such subsequent pension shall be paid to the children or beneficiaries, if any, of her remarriage who are living and are eligible for a pension under this Act.

(5) Any reference in paragraph (a) or (b) of subsection (4) to the husband of a widow shall be construed as a reference to her husband by any remarriage.

(6) If a beneficiary dies or ceases to be a beneficiary within the meaning of this Act, and-

(a) there are no other beneficiaries, the special pension payable in respect of the beneficiary shall cease;

(b) there are other beneficiaries, the special pension or the portion of that pension, if any, payable in respect of that beneficiary shall, subject to the provisions of subsection (2), be payable in respect of the other beneficiaries.

10. (1) An officer shall, unless he has previously done so, within ninety days after he becomes subject to the provisions of this Act, furnish the Permanent Secretary with proof-

Furnishing of
information

(a) of the date of his birth; and

(b) if he is a married man, or a widower with children or beneficiaries, of the dates of his marriage, and of the births of his wife, children and beneficiaries (if any).

(2) An officer who marries before his last day of pensionable service under the Government shall, within ninety days after his marriage, furnish the Permanent Secretary with proof of his marriage and of the date of birth of his wife.

(3) An officer shall, within ninety days after the event, furnish the Permanent Secretary with proof of-

- (a) the birth of any child born to him;
- (b) the marriage of any female child or beneficiary;
- (c) the death of his wife or of any of his children or beneficiaries.

(4) After the death of any married officer, the widow of such officer shall, within ninety days after the event, furnish the Permanent Secretary with proof of-

- (a) the date of the death of the officer;
- (b) the birth of any posthumous child born to such officer;
- (c) the marriage of any female child or beneficiary of such officer;
- (d) the death of any child or beneficiary of such officer;
- (e) her own remarriage.

(5) An officer or pensioner who contracts or who has contracted a marriage under a system permitting of polygamy shall notify the Permanent Secretary of-

- (a) the name of each wife;
- (b) the names of the children of each marriage; and
- (c) the dissolution of any marriage by death or divorce or the nullification of any marriage.

(6) No pension or other benefit shall be paid under this Act-

- (a) to a widow until proof of marriage to and the date of the death of the husband has been furnished;

(b) in respect of a child or beneficiary until proof has been furnished of the eligibility of that child or beneficiary therefor;

(c) to a widow or in respect of the children of an officer or pensioner married under a system permitting of polygamy unless their names have been notified in accordance with the provisions of subsection (5).

(7) The proof required to be furnished under this section shall be to the satisfaction of the Permanent Secretary:

Provided that the payment of a pension or other benefit under this Act shall not be withheld by reason that any proof furnished is not to the satisfaction of the Permanent Secretary unless the appropriate Service Commission concurs in the decision to withhold the payment of the pension or other benefit.

11. (1) If an officer or widow of an officer shall at any time have wilfully made any false statement respecting any of the particulars required by this Act to be furnished, all or any part of the rights under this Act of the officer or widow or child or beneficiary of the officer shall be liable to be forfeited at the discretion of the appropriate Service Commission.

Forfeiture of pension

(2) If a person becoming entitled to or actually in receipt of a pension under this Act is found guilty by a court of competent jurisdiction-

(a) of misappropriating public moneys or property of the Government; or

(b) of making a false statement for the purpose of obtaining a pension, knowing the statement to be false or not believing it to be true; his right to any pension or his pension, as the case may be, shall, in accordance with the directions of the appropriate Service Commission, be suspended, reduced or forfeited, as the case may be.

12. A pension or other benefit payable under this Act shall not be assignable or transferable except for the purpose of satisfying-

Pensions or other benefits not to be assignable

- (a) a debt due to the Government; 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 child or beneficiary of the officer to whom the pension or other benefit is payable;
- and 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 Government:

Provided that the provisions of the Maintenance Orders Act shall apply Cap. 56 in relation to any pension or other benefit payable under this Act.

- 13.** Any pension or other benefit payable under this Act shall be a charge on the general revenues of the Republic.
- Pensions and other benefits charged on general revenues of the Republic