

CHAPTER 278

THE PUBLIC OFFICERS' PENSIONS (ZAMBIA) AGREEMENT (IMPLEMENTATION) ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 278 22 of PUBLIC OFFICERS' PENSIONS 1979 (ZAMBIA) AGREEMENT (IMPLEMENTATION)

An Act to make provision for the implementation of the Public Officers' Pensions (Zambia) Agreement, 1978; and to provide for matters connected therewith or incidental thereto.

[1st November 1985]

WHEREAS the Government of the Republic of Zambia and the Government of the United Kingdom of Great Britain and Northern Ireland have signed an Agreement concerning the control, administration and payment of certain public officers' pensions; Preamble

AND WHEREAS it is expedient to make provision for giving effect to the provisions of the said Agreement, and to provide for matters connected therewith or incidental thereto:

NOW THEREFORE BE IT ENACTED by the Parliament of Zambia. Enactment

1. This Act may be cited as the Public Officers' Pensions (Zambia) Short title

Agreement (Implementation) Act.

2. In this Act, unless the context otherwise requires-

Interpretation

"Agreement" means the Agreement between the Government of the Republic of Zambia and the Government of the United Kingdom of Great Britain and Northern Ireland executed by the parties thereto on the 8th August, 1978, which Agreement is set out in the Schedule.

3. After the commencement of this Act, the Government shall cease to have any responsibility for the award, control administration and payment of pensions covered by the Agreement.

Cessation of responsibility for certain pensions

4. (1) There shall be charged on and paid out of the general revenues of the Republic all such sums of moneys as may from time to time be due and payable under the Agreement.

Expenditure to be charged on general revenues

(2) Notwithstanding anything contained in any other written law, the Government shall, after the commencement of this Act, pay to the Government of the United Kingdom of Great Britain and Northern Ireland in respect of the widows' and orphans' pensions, such stocks, funds, securities or moneys as represent the interest in the Widows' and Orphans' Pension Fund established under the Widows and Orphans Pension Act of contributory officers and their potential beneficiaries alive at the date of the commencement of the Act, and the beneficiaries of deceased contributory officers as are alive on the date of the commencement of the Act.

5. Section *twelve* of the Widows and Orphans Pensions Act is hereby repealed.

Repeal of section 12 of Cap. 279

SCHEDULE

(Section 2)

AGREEMENT

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA
AND THE GOVERNMENT OF
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

CONCERNING
PUBLIC OFFICERS' PENSIONS

The Government of the Republic of Zambia and the Government of the United Kingdom of Great Britain and Northern Ireland have agreed as follows:

ARTICLE 1

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 Zambia;
- (c) "inducement allowance" means any inducement allowance which is pensionable under the pensions laws enjoyed by an officer under the Overseas Service (Northern Rhodesia) Agreement 1961, or any agreement or any arrangement amending or replacing the same;
- (d) "officer" means an officer or re-employed officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the Government of Zambia signed at Lusaka on 24 October 1964 (hereinafter referred to as "the Public Officers' Agreement") applies or applied and who was not a citizen of Zambia 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 Zambia 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 Zambia;
- (f) "pension" means any pension, gratuity, compensation and interest thereon, or any retiring allowance or other like benefit, or any increase of pension, on any contributions repayable to, or interest on contributions payable to, any officer, payable under the pensions laws by the Government of Zambia to or in respect of any officer, or to the widow or child of any officer or his legal personal representative;
- (g) "pensionable emoluments":
 - (i) in respect of public service under the Government of Zambia, means emoluments which count for pension under the pensions laws;
 - (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;
- (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 Zambia at any time prior to 25 June 1973 and enacted prior to that date; and

- (bb) The Zambia (Compensation and Retiring Benefits) Order 1964 and the Non-Designated Expatriate Officers (Retiring Benefits Act) 1965;
- (ii) in relation to widows' and orphans' pensions, the Widows and Orphans Pensions Act, Chapter 402 of the Laws of Zambia 1970 Edition and the Widows' Pensions Act, Chapter 401 of the Laws of Zambia 1970 Edition and any amendments to either Act in force at any time prior to 25 June 1973 and enacted prior to that date (in this Agreement referred to respectively as "Chapter 402" and "Chapter 401"); 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 Zambia for the purposes of this Agreement;
- (i) "public service" means:
- (i) service in a civil capacity under the Government of Zambia or any other country or territory in the Commonwealth;
- (ii) service under the East African 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 Zambia 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;
- (vii) 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 Zambia on or after 1 May 1964;
- (k) "widows' and orphans' pensions" means pensions payable under Chapter 279 or Chapter 260 of the laws of Zambia;
- (l) "the Zambia element" in relation to a pension (other than compensation or interest thereon payable under the Zambia (Compensation and Retiring Benefits) Order 1964) or a

widows' and orphans' pension 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 Zambia which have been taken into account in determining the amount of that pension.

(2) In relation to any period before 24 October 1964 references to the Government of Zambia shall be construed as references to the Government of Northern Rhodesia.

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 Zambia 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 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 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 Zambia should be adjudged by the order of a competent court of law having jurisdiction in Zambia 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 Zambia 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.

ARTICLE 4

Obligations of the Government of Zambia

(1) The Government of Zambia 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, if any, of the Zambia 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 Zambia element of such pensions if the public service of the officer ceased on the appointed day, which is attributable to the officers' relevant service up to the day immediately preceding the appointed day;
- (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;
- (iii) in respect of widows' and orphans' pensions, such stocks, funds, securities or moneys as represent the interest in the Widows' and Orphans' Pensions Fund established under Chapter 279 of contributory officers and their potential beneficiaries alive on the appointed day and the beneficiaries alive on the appointed day of deceased contributory officers;
- (d) that they shall as soon as possible after the appointed day with effect therefrom, enact the necessary domestic legislation to give effect to this Article.

(2) The sums payable under sub-paragraphs (1) (c) (i), (1) (c) (ii) (aa) and (1) (c) (iii) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Zambia and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government

of Zambia would have received in respect of the Zambia 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 (Northern Rhodesia) Agreement 1961, and any agreement or arrangement amending or replacing the same and any other agreement or arrangement relating to the reimbursement of the Government of Zambia 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, 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 9 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 Zambia mutually decide that this Agreement shall 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 notify the other Party in writing as soon as it has completed the preliminary arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the date on the later of these two notifications.

ARTICLE 9

Citation

This Agreement may be cited as the Public Officers' Pensions (Zambia) Agreement 1978.

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

Done in duplicate at Lusaka this 8th day of August, 1978 (in the English language).

J. M. MWANAKATWE,
*For the Government of the Republic
of Zambia*

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