

CHAPTER 16:01

PENSIONS AND OTHER BENEFITS ACT

Act 12/1979 (Third Schedule), UK S.I 1980/395 (s. 4).

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[Date of commencement: 1st June, 1979.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Pensions and Other Benefits Act [*Chapter 16:01*].

PART II

BENEFITS FOR MEMBERS OF PUBLIC SERVICE AND OTHERS

2 Interpretation

(1) In this Part—

“contributor” means a person who contributes to the Consolidated Revenue Fund by virtue of the provisions of the Pensions Regulations;

“effective date” means the 30th April, 1979;

“officer” means a person who is an officer for the purposes of the Public Services Act;

“officer of Parliament” means a member of the staff of Parliament who contributes to the Consolidated Revenue Fund for the purpose of securing benefits for himself and his dependants on his retirement from, or other termination of service with, Parliament;

“Parliamentary terms of service” means the regulations and rules governing the terms of service of officers of Parliament;

“Pensions Act” means the State Service (Pensions) Act [*Chapter 275 of 1974*];

“Pensions Regulations” means the State Service (Pensions) (Public Service) Regulations, 1976;

“Public Services Act” means the Public Services Act [*Chapter 271 of 1974*].

(2) The calculation for the purposes of this Part of the pensionable service and the average pensionable emoluments or retiring pensionable emoluments of—

- (a) an officer or other contributor shall be made in accordance with the provisions of the Pensions Act and Pensions Regulations;
- (b) a person referred to in section *eleven* shall be made in accordance with the provisions of the conditions of his appointment to the office concerned;
- (c) an officer of Parliament shall be made in accordance with the provisions of the Parliamentary terms of service with the reference to average pensionable emoluments or retiring pensionable emoluments being construed as a reference to actual emoluments rate or terminal emoluments rate, as the case may be.

3 Replacement or loss of office

(1) Subject to section *seven*, a contributor who was appointed to the Public Service before the 1st October, 1978, and has had continuous service as a contributor since that date is discharged on grounds not provided for in the Public Services Act immediately before the effective date, he shall be entitled, with effect from the date of his discharge, to a pension at the rate of 1/550th of his retiring pensionable emoluments for each complete month of his qualifying service.

(2) For the purposes of subsection (1)—

“qualifying service”, in relation to a contributor, means the pensionable service of that contributor increased by one-third calculated to the nearest complete month:

Provided that the number of complete months by which the period of pensionable service is to be increased shall not exceed the number of complete months by which the age of the contributor in months is less than 780.

4 Early retirement

(1) Subject to section *seven*, an established officer who was appointed to the Public Service as an officer before the 1st October, 1978, and has had continuous service as an officer since that date may, at any time after he has completed a period of service of not less than one year after the effective date, retire from the Public Service:

Provided that an officer who wishes to retire in terms of this paragraph shall give not less than three calendar months’ notice of his intention to retire, which shall expire not earlier than the 30th April, 1980.

(2) Notwithstanding the proviso to subsection (1), a head of Ministry may accept a period of notice to retire in terms of subsection (1) which amounts to less than three calendar months but does not expire before the 30th April, 1980.

5 Benefits on retirement

(1) An officer who retires in terms of section *four* who, at the date on which he retires, has not attained the age of fifty-five years shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

- (a) on or after the first anniversary and before the second anniversary of the effective date, at the rate of 1/880th;
- (b) on or after the second anniversary and before the third anniversary of the effective date, at the rate of 1/836th;
- (c) on or after the third anniversary and before the fourth anniversary of the effective date, at the rate of 1/792nd;
- (d) on or after the fourth anniversary and before the fifth anniversary of the effective date, at the rate of 1/748th;
- (e) on or after the fifth anniversary and before the sixth anniversary of the effective date, at the rate of 1/704th;
- (f) on or after the sixth anniversary of the effective date, at the rate of 1/660th;

of his average pensionable emoluments for each complete month of his pensionable service.

(2) Save as otherwise provided in subsection (3), an officer who retires in terms of section *four* and who, at the date on which he retires, has attained the age of fifty-five years or more shall be entitled, with effect from the date of his retirement, to a pension calculated—

- (a) if he has not attained the age of fifty-six years, at the rate of 1/792nd;
- (b) if he has attained the age of fifty-six years but has not attained the age of fifty-seven years, at the rate of 1/748th;

- (c) if he has attained the age of fifty-seven years but has not attained the age of fifty-eight years, at the rate of 1/704th;
- (d) if he has attained the age of fifty-eight years but has not attained the age of fifty-nine years, at the rate of 1/660th;
- (e) if he has attained the age of fifty-nine years but has not attained the age of sixty years, at the rate of 1/638th;
- (f) if he has attained the age of sixty years but has not attained the age of sixty-one years, at the rate of 1/616th;
- (g) if he has attained the age of sixty-one years but has not attained the age of sixty-two years, at the rate of 1/594th;
- (h) if he has attained the age of sixty-two years but has not attained the age of sixty-three years, at the rate of 1/572nd;
- (i) if he has attained the age of sixty-three years or more, at the rate of 1/550th;

of his average pensionable emoluments for each complete month of his pensionable service:

Provided that if such an officer had, at the date of his retirement, served for four years or more after the effective date, his pension shall be calculated at the appropriate rate specified in paragraph (d), (e) or (f) of subsection (1) or the appropriate rate specified in this subsection, whichever is the more favourable to him.

(3) A female officer who had been appointed as an officer prior to the 1st January, 1965, and has had continuous service as an officer since that date and who retires in terms of section *four* and at the date on which she retires has attained the age of fifty-five years or more shall be entitled, with effect from the date of her retirement, to a pension calculated—

- (a) if she has not attained the age of fifty-eight years, at the rate of 1/638th;
- (b) if she has attained the age of fifty-eight years but has not attained the age of sixty-one years, at the rate of 1/616th;
- (c) if she has attained the age of sixty-one years but has not attained the age of sixty-two years, at the rate of 1/594th,
- (d) if she has attained the age of sixty-two years but has not attained the age of sixty-three years, at the rate of 1/572nd;
- (e) if she has attained the age of sixty-three years or more, at the rate of 1/550th;

of her average pensionable emoluments for each complete month of her pensionable service.

6 Ill-health or death of officer

(1) An officer referred to in section *four* who is discharged on or after the 30th April, 1980, on the grounds of ill-health or mental or physical deficiency or infirmity shall be entitled to receive the benefits provided in the Pensions Regulations or, if he so elects by notice in writing, a pension calculated in terms of section *five*.

(2) If on the death of an officer referred to in section *four* on or after the 30th April, 1980, his spouse or any child or dependant is entitled to receive a pension in terms of the Pensions Regulations, the pension payable to that person shall be calculated in accordance with the Pensions Regulations or in terms of section *five*, whichever is the more favourable to the recipient of the pension.

7 Officers not eligible for benefits

(1) Sections *three* and *four* shall not apply to an officer who was transferred to the Public Service from pensionable employment in the former Federal Public Service consequent on the dissolution of the former Federation of Rhodesia and Nyasaland and who, at the effective date, is occupying a post which is classified in terms of the Public Services Act as a Group I or Group II employee post.

(2) An officer may not retire in terms of section *four* if—

- (a) he retires or resigns to avoid discharge on the grounds of misconduct; or
- (b) the notice of intention to retire in terms of section *four* is given or would expire whilst he is under suspension or prohibition from duty in terms of the law relating to the Public Service; or
- (c) having been granted special leave for training or study purposes subject to the condition that he serves Government for a specified period after the expiration of such leave, the notice of intention to retire in terms of section *four* is given or would expire before he has completed his service for that specified period.

8 Pensions for spouses and dependants

On and after the death of a former contributor who is in receipt of a pension in terms of this Part the Pensions Regulations shall apply, *mutatis mutandis*, in relation to the determination of whether any pension is payable to or in respect of his spouse or any child or dependant and, if so, the amount thereof, as though the pension being paid to that former contributor were paid in terms of the Pensions Regulations.

9 Commutation of pensions

The Pensions Act and the relevant regulations made thereunder shall apply, *mutatis mutandis*, in relation to the commutation of a pension payable in terms of this Part as though the pension were payable in terms of the Pensions Regulations.

10 Prohibition of dual benefits

A contributor who is paid any pension or commutation thereof in terms of this Part shall not be entitled to receive any pension in terms of the Pensions Regulations.

11 Application of provisions to certain former officers

(1) Sections *four to ten* shall apply, *mutatis mutandis*, to—

(a) a member of the Public Service Commission who, immediately before his appointment as such, was—

(i) a service member of the former Public Services Board; or

(ii) an established officer who was appointed to the Public Service as an officer before the 1st October, 1978, and has had continuous service as an officer since that date;

and

(b) the person holding the office of Comptroller and Auditor-General if, immediately before his appointment as such, he—

(i) held the office of Comptroller and Auditor-General under the former Constitution; or

(ii) was an established officer referred to in subparagraph (ii) of paragraph (a).

(2) The application of section *ten* in relation to a person referred to in paragraph (a) or (b) of subsection (1) shall not preclude the payment in terms of his conditions of service of any pension or other benefits in respect of any ill-health of or injury to, or the death of, that person arising out of and in the course of his official duties.

12 Application of provisions to officers of Parliament

(1) Section *three* shall apply, *mutatis mutandis*, in relation to an officer of Parliament who is removed from office on grounds of expediency or necessity not otherwise specified in the Parliamentary terms of service as in force immediately before the effective date.

(2) Sections *four to ten* shall apply, *mutatis mutandis*, in relation to an officer of Parliament who is not an officer under contract as defined in the Parliamentary terms of service in force immediately before the effective date.

(3) The application of section *ten* in relation to an officer of Parliament referred to in subsection (2), shall not preclude the payment in terms of the Parliamentary terms of service of any pension or other benefits in respect of any ill-health of or injury to, or the death of, that officer arising out of and in the course of his official duties.

PART III

BENEFITS FOR MEMBERS OF UNIFORMED FORCES

13 Interpretation

(1) In this Part—

“Commanding Officer”, in relation to a member referred to in—

(a) subsection (1) of section *fourteen*, means the Commissioner of Police;

(b) subsection (2) of section *four*, means the Commander of the Army or the Air Force, as the case may be;

(c) subsection (3) of section *four*, means the Director of Prisons;

“contributor” means a member who is paying contributions to the Consolidated Revenue Fund in terms of the Pensions Regulations;

“effective date” means the 30th April, 1979;

“member” means a person to whom, in terms of section *fourteen*, the provisions of this Part apply;

“Pensions Act” means the State Service (Pensions) Act [*Chapter 275 of 1974*];

“Pensions Regulations” means the State Service (Pensions) (Uniformed Forces) Regulations, 1976;

“Uniformed Force” means the Police Force, the Army, the Air Force or the Prison Service, as the case may be.

(2) The calculation, for the purposes of this Part, of the pensionable service and the retiring pension emoluments of a member or other contributor shall be made in accordance with the provisions of the Pensions Act and Pensions Regulations.

14 Application of Part III

(1) This Part shall apply to any member of the Regular Force of the Police Force, other than an auxiliary member, who has had continuous service as a contributor since before the 1st October, 1978, and who—

(a) at that date was of the rank of patrol officer or above; or

(b) was appointed to that Regular Force in terms of subparagraph (i) of paragraph (d) of subsection (1) of section 3 of the Police (Cadet) Regulations, 1965, before the 1st October, 1978, and has since attained the rank of patrol officer in that Regular Force; or

- (c) was last appointed to that Regular Force before the 1st October, 1978, and has since attained the rank of patrol officer before the 30th April, 1979; or
 - (d) was a National Service member of the Police Force undergoing Phase I service immediately before the 1st October, 1978, and has, during the currency of his Phase I service and before the 30th April, 1979, attained the rank of patrol officer.
- (2) This Part shall apply to any member of the Regular Force of the Army or Air Force who has had continuous service as a contributor since before the 1st October, 1978, and who—
- (a) at that date was an officer as defined in the Defence (Regular Force) (Officers) Regulations, 1976, or a member as defined in the Defence (Regular Force) (European Members) Regulations, 1976, or the Defence (Regular Force) (Rhodesia Women's Services) Regulations, 1978; or
 - (b) was a member as defined in the Defence (Regular Force) (African Members) Regulations, 1976, before the 1st October, 1978, and has since been promoted to commissioned rank in terms of the Defence (Regular Force) (Officers) Regulations, 1976, before the 30th April, 1979; or
 - (c) was a National Service member of the Army or Air Force undergoing Phase I service immediately before the 1st October, 1978, and has, during the currency of his Phase I service and before the 30th April, 1979, become a member of the Regular Force of the Army or Air Force.
- (3) This Part shall apply to any member of the Prison Service, other than the Auxiliary Branch or National Service Branch thereof, who has had continuous service as a contributor since before the 1st October, 1978, and who—
- (a) at that date was of the rank of prison officer or above; or
 - (b) was appointed as a member of the Prison Service, other than the Auxiliary Branch or National Service Branch thereof, before the 1st October, 1978, and has since attained the rank of prison officer before the 30th April, 1979.

15 Replacement or loss of office

(1) If a contributor who was appointed to a Uniformed Force before the 1st October, 1978, and has had continuous service as a contributor since that date is discharged on grounds not provided for in the conditions of service applicable to him immediately before the effective date, he shall be entitled, with effect from the date of his discharge, to a pension at the rate of 1/490th of his retiring pensionable emoluments for each complete month of his qualifying service.

(2) For the purposes of subsection (1)—

“qualifying service”, in relation to a contributor, means the pensionable service of that contributor increased by one-third calculated to the nearest complete month:

Provided that the number of complete months by which the period of pensionable service is to be increased shall not exceed—

- (a) in the case of a contributor who, on the date of his discharge, has not attained the age of fifty-five years, the number of complete months by which his age in months is less than 660;
- (b) in the case of a contributor not referred to in paragraph (a), the number of complete months by which his age in months at his next birthday is more than his age in months.

16 Early retirement

(1) A member who, at the date of his retirement, will have completed not less than two years' service as a contributor since his last appointment as such may, at any time after he has completed a period of service of not less than one year after the effective date, retire from the Uniformed Force of which he is a member:

Provided that a member who wishes to retire in terms of this paragraph shall give not less than three calendar months' notice of his intention to retire, which shall expire not earlier than the 30th April, 1980.

(2) Notwithstanding the proviso to subsection (1), the Commanding Officer may accept a period of notice to retire in terms of subsection (1) which amounts to less than three calendar months but does not expire before the 30th April, 1980.

17 Benefits on retirement

(1) A member who retires in terms of section *sixteen* and who, at the date on which he retires, would not, in terms of the Pensions Regulations, be entitled to a pension shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

- (a) on or after the first anniversary and before the second anniversary of the effective date, at the rate of 1/820th;
- (b) on or after the second anniversary and before the third anniversary of the effective date, at the rate of 1/776th;
- (c) on or after the third anniversary and before the fourth anniversary of the effective date, at the rate of 1/732nd;
- (d) on or after the fourth anniversary and before the fifth anniversary of the effective date, at the rate of 1/688th;

(e) on or after the fifth anniversary and before the sixth anniversary of the effective date, at the rate of 1/644th;

(f) on or after the sixth anniversary of the effective date, at the rate of 1/600th;
of his retiring pensionable emoluments for each complete month of his pensionable service.

(2) A member who was eligible in terms of the Pensions Regulations to retire on pension at any time before the first anniversary of the effective date and who retires in terms of section *sixteen* on or after the first anniversary of the effective date shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

(a) on or after the first anniversary and before the second anniversary of the effective date, at the rate of 1/556th;

(b) on or after the second anniversary and before the third anniversary of the effective date, at the rate of 1/534th;

(c) on or after the third anniversary and before the fourth anniversary of the effective date, at the rate of 1/512th;

(d) on or after the fourth anniversary of the effective date, at the rate of 1/490th;
of his retiring pensionable emoluments for each complete month of his pensionable service.

(3) A member who at any time after the first anniversary of the effective date first becomes eligible in terms of the Pensions Regulations to retire on pension and who retires in terms of section *sixteen* on or after the first anniversary of the effective date shall be entitled, with effect from the date of his retirement, to a pension calculated, if he retires—

(a) on or after the date he first becomes eligible to retire on pension in terms of the Pensions Regulations and before the first anniversary of that date, at the rate of 1/556th;

(b) on or after the first anniversary and before the second anniversary of the date referred to in paragraph (a), at the rate of 1/534th;

(c) on or after the second anniversary and before the third anniversary of the date referred to in paragraph (a), at the rate of 1/512th;

(d) on or after the third anniversary of the date referred to in subparagraph (a) at the rate of 1/490th;
of his retiring pensionable emoluments for each complete month of his pensionable service.

18 Ill-health or death of member

(1) A member referred to in section *sixteen* who is discharged on or after the 30th April, 1980, on the grounds of ill-health, physical or mental unfitness or incapacity or personal injury shall be entitled to receive the benefits provided in the Pensions Regulations or, if he so elects by notice in writing, a pension calculated in terms of section *seventeen*.

(2) If on the death of a member referred to in section *sixteen* on or after the 30th April, 1980, his spouse or any child or dependant is entitled to receive a pension in terms of the Pensions Regulations, the pension payable to that person shall be calculated in accordance with the Pensions Regulations or in terms of section *seventeen* whichever is the more favourable to the recipient of the pension.

19 Pensions for spouses and dependants

On and after the death of a former member who is in receipt of a pension in terms of this Part the Pensions Regulations shall apply, *mutatis mutandis*, in relation to the determination of whether any pension is payable to or in respect of his spouse or any child or dependant and, if so, the amount thereof, as though the pension being paid to that former member were paid in terms of the Pensions Regulations.

20 Commutation of pensions

The Pensions Act and the relevant regulations made thereunder shall apply, *mutatis mutandis*, in relation to the commutation of a pension payable in terms of this Part as though the pension were payable in terms of the Pensions Regulations.

21 Prohibition of dual benefits

A member who is paid any pension or commutation thereof in terms of this Part shall not be entitled to receive any pension in terms of the Pensions Regulations.