

ACT No. 21 of 1961

THE PENSIONS (AMENDMENT) ACT, 1961

Assented to by the East Africa High Commission in Her Majesty's name and on Her Majesty's behalf this 30th day of November, 1961.

P. M. RENISON,

Chairman of the East Africa High Commission.

AN ACT TO AMEND THE PENSIONS ACT

Date of Commencement: 30th November, 1961

ENACTED by the East Africa High Commission with the advice and consent of the Legislative Assembly thereof, as follows:—

Short title and construction.
R.E. Cap. 9.

1. This Act may be cited as the Pensions (Amendment) Act, 1961, and shall be read and construed as one with the Pensions Act, hereinafter referred to as the principal Act.

Construction of certain references in principal Act.

2. References in the principal Act and in any Regulations or Orders made thereunder to the Colonial Superannuation Scheme shall be construed as references to the Oversea Superannuation Scheme.

Amendment of section 2 of principal Act.

3. (1) Subsection (1) of section 2 of the principal Act is hereby amended by the deletion of the words "inducement pay" in the definition of "pensionable emoluments" and the substitution therefor of the words "overseas addition, inducement allowance".

(2) Subsection (1) of this section shall be deemed to have come into operation on the 1st April, 1960.

Amendment of section 9 of principal Act.

4. Section 9 of the principal Act is hereby amended by the deletion of subsection (2) and the substitution therefor of the following:—

“(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the funds of the High Commission an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments enjoyed by him at any time in the course of his public service:

Provided that—

(a) where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purpose of this subsection to be

what it would have been if part of it had not been commuted or, in the case of a pension granted under the Superannuation Acts of the United Kingdom or under the Oversea Superannuation Scheme, to be four-thirds of its actual amount; and

- (b) where the amount of any pension granted under the Superannuation Acts of the United Kingdom is increased by virtue of the provisions of section 35 or section 36 of the Superannuation Act, 1949, of the United Kingdom, or any provisions amending or replacing those sections, the amount of the increase shall not be taken into account for the purposes of this section."

5. Section 16 of the principal Act is hereby repealed and replaced by the following:—

Repeal and replacement of section 16 of principal Act.

"16. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed, dies while in the service of the High Commission, it shall be lawful for the High Commission to grant to his legal personal representative a gratuity of an amount not exceeding his annual pensionable emoluments or his commuted pension gratuity, if any, whichever is the greater.

(2) Where an officer dies after retirement from service under the High Commission having been granted, or having become eligible for, a pension or other allowance under this Act and the sums paid or payable to him at the date of his death on account of such pension or other allowance, including any sum awarded by way of gratuity under regulation 26 of the Pensions Regulations and any pension or gratuity paid or payable in respect of his service under any scheduled Government (as defined in regulation 8 of the Pensions Regulations), but excluding any additional pension awarded in accordance with the provisions of regulation 25 of the Pensions Regulations, are less in total than the amount of his annual pensionable emoluments or of his commuted pension gratuity, whichever is the greater, it shall be lawful for the High Commission to grant a gratuity equal to the deficiency to his legal personal representative.

(3) A gratuity granted under subsection (1) or subsection (2) of this section to the legal personal representative shall form part of the estate of the officer for the purposes of distribution, but no estate duty shall be payable in respect thereof and its addition to the principal value of the estate shall not be taken into consideration for the purpose of increasing the rate at which estate duty on the remainder of the estate may be payable and no fees or charges shall be payable to the Public Trustee or Administrator General in respect thereof.

(4) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Oversea Superannuation Scheme in respect of such death.

(5) For the purposes of this section—

“annual pensionable emoluments” means—

- (i) the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer under this Act if he had retired from the public service in the circumstances described in paragraph (e) of section 6;
- (ii) in the case of an officer not holding a pensionable office, the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office;

“commuted pension gratuity” means the maximum gratuity, if any, which might have been granted to the officer under regulation 26 of the Pensions Regulations if his pensionable service had been wholly under the High Commission and if, in the case of such officer as is described in subsection (1), at the date of his death he had retired from the public service in the circumstances described in paragraph (e) of section 6 and had elected to receive a gratuity and reduced pension or, in the case of such officer as is described in subsection (2), he had before the date of his retirement elected to receive a gratuity and reduced pension;

“legal personal representative” includes, in any case where a gratuity does not exceed £500, such person as the High Commission may determine.

(6) For the purposes of this section an officer who has not been confirmed in his office and who dies in the circumstances mentioned in subsection (1) of section 17 shall be deemed to have been confirmed in his office.”

6. (1) The Third Schedule to the principal Act is hereby amended—

Amendment of
Third Schedule
to principal Act.

(a) by the deletion of subparagraph (12) of paragraph 2 and the substitution therefor of the following:—

“(12) for the words “one-twelfth of a month’s pay at the date of his retirement for each complete month of his service under the High Commission which would be pensionable service if he were eligible for a pension under these Regulations” in paragraph (1) of regulation 27 of the Regulations, there shall be substituted the words “one week’s pay for each complete year of service under the High Commission which would be pensionable service if he were eligible for a pension under these Regulations up to five years of such service, and two weeks’ pay for each complete year of such service in excess of five years and up to ten years, and four weeks’ pay for each complete year of such service in excess of ten years, subject to a maximum of one year’s pay”;

(b) by the addition after subparagraph (12) of the following new subparagraph (13):—

“(13) in the case of an officer who, immediately before he ceases to be employed in public service which is pensionable under the Act, was employed in non-participating employment within the meaning of subsection (2) of section 7 of the National Insurance Act, 1959, of the United Kingdom (hereinafter referred to as the National Insurance Act) there shall be excluded from the operation of any provision of the Act for the assignment, commutation, reduction, suspension, termination or withdrawal of a pension so much of the pension payable to such officer as is equal to the amount of his notional graduated retirement benefit, except for termination or suspension for causes as may be prescribed by regulations made under paragraph (c) of subsection (1) of section 8 of the National Insurance Act.

For the purposes of this paragraph—

(i) “notional graduated retirement benefit” means the amount, expressed as a yearly rate, of the graduated retirement benefit which would be payable under the National Insurance Act to an officer in

return for an amount of graduated contributions equal to one such contribution paid in respect of a weekly payment of remuneration of fifteen pounds in each week of the period of his pensionable service under the High Commission after 2nd April, 1961, to the extent only that the service is service in a non-participating employment within the meaning of subsection (2) of section 7 of that Act;

(ii) "graduated contributions" means graduated contributions under the National Insurance Act;

(iii) references to the provisions of the National Insurance Act are references to those provisions as amended or re-enacted by any subsequent enactment."

(2) Paragraph (a) of subsection (1) of this section shall be deemed to have come into operation on the 15th May, 1957.