

THE PENSIONS (AMENDMENT) ACT 1966

No. 32 of 1966

Date of Assent: 16th November 1966

Date of Commencement: 22nd November 1966

An Act of Parliament to amend the Pensions Act to provide for the grant of pensions, gratuities and other allowances to certain teachers

ENACTED by the Parliament of Kenya, as follows:—

Short title.

1. This Act may be cited as the Pensions (Amendment) Act 1966.

Insertion of new
section 22 in
Cap. 189.

2. The Pensions Act, hereinafter referred to as the principal Act, is amended by inserting immediately after section 21 thereof a new section as follows—

Pensions,
etc., for
certain
teachers.

22. (1) The provisions of this Act (including the First Schedule but excluding the Second, Third and Fourth Schedules thereto) shall, subject to the modifications thereof contained in the Fifth Schedule to this Act, apply to a teacher and such teacher shall, for the purposes of this Act and during his approved service in Kenya, be deemed to be an officer in the service of the Government.

(2) For the purposes of this section and the Fifth Schedule to this Act—

“approved service” means such service as the Minister for the time being responsible for education may, after consultation with the Minister for the time being responsible for finance, declare to be approved service for the purposes of this Act;

“teacher” means—

(a) any person who, before the 1st August 1962, was a contributor to the Fund established under the African Teachers Service (Contributory Pensions Fund) Regulations (now revoked) and who was eligible to exercise an option in accordance with Education Circular No. 3 of 1962 dated 18th October 1962;

Cap. 212.
Sub. Leg.

(b) any person who was a contributor to the Group Pension Scheme referred to in Education Circular No. 10 of 1963 dated 9th October 1963 and who was eligible to exercise an option in accordance with that Circular;

(c) any person who—

(1) being an African was appointed on or after the 1st August 1962 to the Teachers Service established under the Teachers Service Act;

(2) in the case of a non-African, being a teacher for the purposes of the Teachers Service Act—

(i) was appointed to an aided school as a teacher before the 1st January 1964 and was not eligible to contribute to the Group Pension Scheme referred to in Education Circular No. 10 of 1963 dated 9th October 1963; or

(ii) was appointed to an aided school as a teacher on or after the 1st January 1964:

Provided that no such African or non-African shall be eligible for the grant of a pension or gratuity under this Act unless he is a citizen of Kenya;

(d) any citizen of Kenya who, being a teacher for the purposes of the Teachers Service Act, is employed as a teacher in any school in Kenya which is an unaided school.

3. The principal Act is amended by inserting immediately after the Fourth Schedule thereto the following Schedule—

Insertion of new Fifth Schedule to the principal Act.

FIFTH SCHEDULE (s. 22)

Modification of the Act and the First Schedule thereto (in this Schedule referred to as “the Regulations”) in their application to certain teachers.

1. In this Schedule—

Cap. 211. “aided school” and “Government school” shall have the meanings assigned to those expressions in the Education Act;

“unaided school” means a school in Kenya which is neither an aided school nor a Government school.

2. The Act shall have effect as if—

(a) in section 2 thereof, there were substituted for the definitions of “pensionable emoluments” and “pensionable office” the following definitions—

“pensionable emoluments” includes salary and personal allowance but does not include any cost of living allowance, duty allowance, responsibility allowance, house allowance, entertainment allowance or any other emoluments whatever;

“pensionable office” means an office in an aided school or in an unaided school to which a teacher has been appointed (on probation or otherwise) by the authority having power for the time being to appoint a teacher on terms which include eligibility for the grant of a pension under this Act and which the teacher has not ceased to hold on such terms;;

(b) in section 3(2) thereof, there were inserted immediately after the words “First Schedule” the words “or the modifications contained in the Fifth Schedule”;

(c) in section 6 (d) thereof, there were substituted for the words “department to which he belongs” the words “educational service in which he is employed”.

3 The regulations shall have effect as if

(a) in regulation 15 thereof—

(i) in paragraph (1), there were substituted for the words “and the date of his

leaving the public service" the words "or approved service and the date of his leaving any such service";

- (ii) in paragraph (3), there were inserted immediately after the words "public service" the words "or approved service";
- (b) in regulation 16 (1) thereof, there were inserted immediately after proviso (ii) thereto the following proviso—
 - (iii) in the case of a teacher who, in accordance with Education Circular No. 3 of 1962 dated 18th October 1962, exercised his option for benefits under the Act any break in service prior to the 1st August 1962 that was disregarded for the purposes of the African Teachers Service (Contributory Pensions Fund) Regulations (now revoked);
- (c) there were substituted for regulation 21 thereof, the following regulation—

21. Only service in a pensionable office shall be taken into account as pensionable service:

Provided that—

(A) where a teacher has opted in terms of Education Circular No. 3 of 1962 dated 18th October 1962 for benefits under the Act—

(a) his approved service in Kenya subsequent to the 31st July 1962 shall, subject to proviso (E) of this regulation—

(i) if it is service in a pensionable office, count as pensionable service; and

(ii) if it is service in an office which is not a pensionable

office, count only as to one-half of such service or such greater proportion or the whole thereof as the President may determine;

- (b) his approved service prior to the 1st August 1962 which counted in full as contributory service under the African Teachers Service (Contributory Pensions Fund) Regulations (now revoked) shall count as pensionable service and his approved service prior to that date which counted in half as contributory service under those Regulations shall count only as to one-half of such service, if he opted to surrender to the Government his entire interest in the Fund established under those Regulations;
- (c) his approved service prior to the 1st August 1962 which counted in full as contributory service under the African Teachers Service (Contributory Pensions Fund) Regulations (now revoked) shall count as to one-third of such service and any other approved service prior to that date shall not be taken into account, if he opted to withdraw from the Fund established under those Regulations his own, but not his employer's, contributions with interest thereon;
- (d) his approved service prior to the 1st August 1962 shall not be taken into account if he opted to withdraw his own and his

employer's contributions to the Fund established under the African Teachers Service (Contributory Pensions Fund) Regulations (now revoked);

(e) his approved service prior to the 1st August 1962 shall not be taken into account if he opted to retain his entire rights under the African Teachers Service (Contributory Pensions Fund) Regulations (now revoked) in respect of such service and to be subject to the provisions of the Act only in respect of his approved service in Kenya subsequent to the 31st July 1962;

(B) where a teacher in an aided school has opted in terms of Education Circular No. 10 of 1963 dated 9th October 1963 for benefits under the Act—

(a) his approved service in Kenya subsequent to the 31st December 1963 shall, subject to proviso (E) of this regulation—

(i) if it is service in a pensionable office, count as pensionable service; and

(ii) if it is service in an office which is not a pensionable office, count only as to one-half of such service or such greater portion or the whole thereof as the President may determine;

(b) his approved service in Kenya prior to the 1st January 1964 for the period during which he contributed to the Group Pension

Scheme referred to in that Circular shall count as pensionable service and his approved service in Kenya before the commencement of his contribution to that Scheme shall count as to one-half of such service, if he opted to surrender to the Government his entire interest in the Group Pension Scheme;

- (c) his approved service in Kenya prior to the 1st January 1964 shall not be taken into account if he opted to retain his rights under the Group Pension Scheme referred to in the Circular in respect of such service and to be subject to the provisions of the Act only in respect of his approved service in Kenya subsequent to the 31st December 1963;
- (C) where an African teacher is first appointed to an aided school on or after the 1st August 1962, or where a non-African teacher is first appointed to an aided school on or after the 1st January 1964, his approved service in such school in a pensionable office shall count as pensionable service and his other approved service in such school, if any, shall count only as to one-half of such service or such greater proportion or the whole thereof as the President may determine;
- (D) where a non-African teacher is first appointed to an aided school before the 1st January 1964, and was not eligible to contribute to the Group Pension Scheme referred to in Education Circular No. 10 of 1963 dated

9th October 1963, his approved service prior to the 1st January 1964 shall not be taken into account and his approved service in such school from that date shall—

(a) if it is service in a pensionable office, count as pensionable service; and

(b) if it is service in an office which is not a pensionable office, count only as to one-half of such service or such greater proportion or the whole thereof as the President may determine;

(E) where an African teacher is employed in an unaided school on or after the 1st August 1962, or where a non-African teacher is employed in an unaided school on or after the 1st January 1964, his approved service in Kenya on or after that date in any such school shall not count as pensionable service unless his employer pays in full to the Government a sum representing twenty-five per centum of the pensionable emoluments enjoyed by the teacher during the entire period of such service, and any sum so paid shall not be refundable in any circumstances; and

(F) where an African teacher who was not a member of the Teacher Service established under the Teachers Service Act was employed in an unaided school before the 1st August 1962, or where a non-African teacher was employed in an unaided school before the 1st January 1964, no account shall be taken of his approved service before that date in any such school.