

LAWS OF THE GILBERT ISLANDS  
REVISED EDITION 1977

CHAPTER 66

OVERSEAS OFFICERS' PENSIONS

ARRANGEMENT OF SECTIONS

Section

1. Citation
2. Pensions Agreement 1976
3. Enforcement of Agreement
4. Non-application of pensions laws

SCHEDULE

**An Ordinance to implement the agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Gilbert Islands concerning overseas public officers' pensions and for purposes connected therewith** 22 of 1976

*Commencement: 1st January 1977* L.N. 26/79

1. This Ordinance may be cited as the Overseas Officers' Pensions Ordinance. Citation
2. In this Ordinance "the Agreement" means the Public Officers' Pensions (Gilbert Islands) Agreement 1976, as set out in the Schedule to this Ordinance. Pensions Agreement 1976
3. The Agreement shall have the force of law within the Gilbert Islands. Enforcement of Agreement
4. From and after the operative date, the provisions of the pensions laws (as defined in the Agreement) shall not apply to pensions to which the Agreement applies. Non-application of pensions laws

SCHEDULE  
(Section 2)

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Gilbert Islands have agreed as follows—

ARTICLE 1

INTERPRETATION

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 the Gilbert Islands;
- (c) "conditions of service" means the laws, rules, regulations, orders and other instruments that regulate the terms of service of an officer relating to his tenure of office, disciplinary control, salary (including salary scales), pensionable allowances and passages;
- (d) "inducement allowance" means any inducement allowance enjoyed by an officer under the Overseas Service (Gilbert and Ellice Islands Colony) Agreement 1961, or any agreement or arrangement amending or replacing the same;
- (e) "officer" means a person who was at any time before the appointed day the substantive holder of a pensionable office in the public service of the Gilbert Islands, being a person who is certified by the Secretary of State as an overseas officer in relation to the Gilbert Islands under the provisions of section 11 (3) (a) of the Pensions (Increase) Act 1971;
- (f) "other public service" means public service not under the Government of the Gilbert Islands;
- (g) "pension" means any pension, gratuity, compensation and interest thereon or any retiring allowance or other like benefit, or interest on contributions payable to, any officer, payable under the pensions laws to or in respect of any officer;
- (h) "pensionable emoluments"—
  - (i) in respect of public service under the Government of the Gilbert Islands 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 laws or regulations in force in such service;
- (i) "pensions laws" means—
  - (i) any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service and in force in the Gilbert Islands at any time prior to the appointed day and enacted or published prior to that date; and
  - (ii) any other law, regulation or administrative direction accepted by the Government of the United Kingdom and the Government of the Gilbert Islands for the purposes of this Agreement;

(j) "public service" means—

- (i) service in a civil capacity under the Government of the Gilbert Islands or other public service as defined in the pensions laws or of any other country or territory in the Commonwealth;
- (ii) service under the East Africa 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, the East African Railway Corporation or under any scheduled government as defined in the pensions regulations;
- (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 the Gilbert Islands 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;

(k) "relevant service" means public service in a civil capacity under the Government of the Gilbert Islands on or after the date on which the Public Service Commission becomes executive;

(l) "the Gilbert Islands element" in relation to a 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, the whole cost;
- (ii) in the case of any other pension, that proportion of the pension which the total pensionable emoluments 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 the Gilbert Islands which have been taken into account in determining the amount of that pension.

## 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 the Gilbert Islands 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

## OBLIGATION 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 any officer different provisions from those contained in the Gilbert Islands 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 they shall provide options to persons to whom sub-paragraph (a) applies under which they may elect for the payment of pension in any of the following countries—
  - (aa) the United Kingdom;
  - (bb) in the Gilbert Islands;
  - (cc) in such other country as the officer or his dependants or his legal personal representatives may, with the concurrence of the Government of the United Kingdom, select;
- (d) that where pensions are payable outside the Gilbert Islands after the appointed day, they shall be paid in sterling and the amount of the payment shall be such as would produce, at the official rate of exchange prevailing at the date of payment, the amount in sterling of the pension calculated as at the official rate of exchange prevailing on the appointed day;
- (e) that if the Government of the Gilbert Islands should be adjudged by the order of a competent court of law having jurisdiction in the Gilbert Islands to be liable to pay to or in respect 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 the Gilbert Islands 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 THE GILBERT ISLANDS

- (1) The Government of the Gilbert Islands undertake—
- (a) that the conditions of service applicable to an officer who continues to be the substantive holder of a pensionable office in the public service of the Gilbert Islands on or after the appointed day shall not be less favourable than those which were applicable to him immediately before the appointed day;
  - (b) that they shall comply with any reasonable request that may at any time be made by the Government of the United Kingdom for the release of an officer, who is a member of Her Majesty's Overseas Civil Service, for transfer or promotion to other public service;
  - (c) that any instalments of pension granted to or in respect of an officer which remain due and unpaid on the appointed day shall be paid in accordance with the pension laws as in force immediately before the appointed day;
  - (d) that they shall as from the appointed day relinquish responsibility for the award, control, administration and payment of any pension to or in respect of an officer in accordance with the terms of this Agreement;
  - (e) 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 awarded before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Gilbert Islands element of such pensions;
    - (ii) in respect of any 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 Gilbert Islands element of such pension if the service of the officer ceased on the appointed day, which is attributable to the officer's relevant service up to the day immediately preceding the appointed day; and
      - (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;
  - (f) that they shall as soon as possible after the appointed day and with effect therefrom, enact the necessary domestic legislation to give effect to this Article.

(2) The sums payable under sub-paragraphs (1) (e) (i) and (1) (e) (ii) (aa) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of the

Gilbert Islands and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of the Gilbert Islands would have received in respect of the Gilbert Islands 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

On and after the appointed day the provisions of the Overseas Service (Gilbert and Ellice Islands Colony) Agreement 1961, and any agreement or arrangement amending or replacing the same, relating to the reimbursement of the Government of the Gilbert Islands 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.

#### ARTICLE 7

##### MODIFICATION OF THIS AGREEMENT

If the Government of the United Kingdom and the Government of the Gilbert Islands mutually decide that this Agreement should 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 decisions.

#### 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 (Gilbert Islands) Agreement 1976.

Done in duplicate this 13th day of December, 1976.

The Government of the  
United Kingdom of Great Britain  
and Northern Ireland.

The Government of the  
Gilbert Islands.