



Treaty Series No. 29 (1976)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Fiji
concerning Public Officers' Pensions

Suva, 31 October 1975

[The Agreement entered into force on 11 December 1975]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1976*

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AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF FIJI CONCERNING PUBLIC OFFICERS'
PENSIONS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Fiji 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 the Faculty of Actuaries in Scotland;
- (b) "the appointed day"⁽¹⁾ means the day mutually arranged between the Government of the United Kingdom and the Government of Fiji;
- (c) "the Fiji element" in relation to a pension (other than compensation or interest thereon payable under the Fiji (Retiring Benefits) Order 1970, or under the Fiji (Compensation and Retiring Benefits) Order 1970 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 Fiji which have been taken into account in determining the amount of that pension;
- (d) "inducement allowance" means any inducement allowance which is pensionable under the Pensions Law and is enjoyed by an officer under the Overseas Service (Fiji) Agreement 1961,⁽²⁾ or any agreement or arrangement amending or replacing the same;
- (e) "other public service" means public service not under the Government of Fiji;
- (f) "officer" means an officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the

⁽¹⁾ The appointed day is 1 January 1976.

⁽²⁾ Not published in Treaty Series.

Government of Fiji signed at Suva on the 16 October 1970⁽³⁾ (hereinafter referred to as "the Public Officers Agreement") applies or applied and who

- (i) was not a citizen of Fiji on 1 April 1971; or
 - (ii) having retired from the public service after that date was not a citizen of Fiji at the date of his retirement or death, as the case may be; or
 - (iii) being a citizen of the United Kingdom and Colonies, a national of a foreign country or a citizen of a Commonwealth country other than Fiji or the United Kingdom and Colonies, who became a citizen of Fiji on 10 October 1970 by operation of section 19 of the Schedule to the Fiji Independence Order 1970, renounced his citizenship of Fiji in accordance with section 15 of the Fiji Citizenship Act 1971 on or before 27 November 1974;
- (g) "pension" means any pension gratuity, compensation and interest thereon, or any retiring allowance or other like benefit, or any increase of pension, or any contributions repayable to, or interest on contributions payable to, any officer, payable under the pensions laws by the Government of Fiji to or in respect of any officer, or to the widow or child of any officer or to his legal personal representative;
- (h) "pensionable emoluments":
- (i) in respect of public service under the Government of Fiji, includes:
 - (aa) salary;
 - (bb) personal allowance;
 - (cc) house allowance; and
 - (dd) inducement allowance;but does not include duty allowance, entertainment allowance or any other emoluments whatever;
 - (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;
- (i) "pensions laws" means:
- (i) in relation to pensions other than widows' and orphans' pensions, any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service and in force in Fiji at any time prior to 19 November 1971 and enacted prior to that date;
 - (ii) in relation to widows' and orphans' pensions, the Widows' and Orphans' Pensions Ordinance, Chapter 62 of the Laws of Fiji

⁽³⁾ Treaty Series No. 3 (1971) Cmnd. 4561.

and any amendments thereto in force at any time prior to 19 November 1971 and enacted prior to that date (hereinafter referred to as "Chapter 62"); 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 Fiji for the purposes of this Agreement;
- (j) "public service" means:
- (i) service in a civil capacity under the Government of Fiji or any other country or territory in the Commonwealth;
 - (ii) service under the East African High Commission, the East African Common Services Organization, 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 Oversea 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 Fiji 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 Fiji on or after 10 July 1970;
- (l) "widows' and orphans' pensions" means pensions payable under Chapter 62.

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 Fiji 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 Fiji should be adjudged by the order of a competent court of law having jurisdiction in Fiji to be liable to pay to or in respect of an officer or the widow or child or 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 Fiji 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 Fiji

(1) The Government of Fiji undertake :

- (a) that they shall remain responsible for any instalments of pension which remains 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 Fiji 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 Fiji element of such pensions if the public 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;

- (d) that they shall whenever requested to do so by the Government of the United Kingdom, supply to that Government such information in connection with the operation of the arrangements contained in this Agreement as may be specified in such request.

(2) The sums payable under sub-paragraphs (1)(c)(i) and (1)(c)(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 Fiji and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Fiji would have received in respect of the Fiji element of the pensions.

ARTICLE 5

Modification of Previous Agreements

(1) On and after the appointed day the provisions of the Overseas Service (Fiji) 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 Fiji 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 8 of the Public Officers Agreement shall cease to apply to or in respect of officers to whom this Agreement applies.

ARTICLE 6

Modification of this Agreement

If the Government of the United Kingdom and the Government of Fiji 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 7

Entry into Force

Each of the Parties to this Agreement shall notify the other Party in writing as soon as it has completed the domestic legislation and other arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the date of the later of those two notifications.(*)

ARTICLE 8

Citation

This Agreement may be cited as the Public Officers' Pensions (Fiji) Agreement 1975.

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

Done in duplicate at Suva this 31st day of October 1975 (in the English language).

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

J. S. ARTHUR

For the Government of Fiji:

C. A. STINSON

(*) The Agreement entered into force on 11 December 1975.

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