



Treaty Series No. 37 (1976)

# Agreement

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

Valletta, 27 January 1976

[The Agreement entered into force on 27 January 1976]

*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 THE REPUBLIC OF MALTA CONCERNING  
PUBLIC OFFICERS' PENSIONS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Malta 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"<sup>(1)</sup> means the day mutually arranged between the Government of the United Kingdom and the Government of Malta;
- (c) "the Malta element" in relation to a pension (other than 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, 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 Malta which have been taken into account in determining the amount of that pension;
- (d) "officer" means an officer who, in the opinion of the Government of the United Kingdom and the Government of Malta was before 21 September, 1964 the substantive holder of a pensionable office in the Public Service of Malta and whose conditions of service before that date included an entitlement to free passages from Malta for the purpose of leave of absence upon the completion of a tour of duty, being a person :
  - (i) who was selected for or offered appointment to the Public Service of Malta by a Secretary of State; or
  - (ii) whose appointment to the Public Service of Malta was approved by a Secretary of State; or
  - (iii) who had entered into an agreement with the Crown Agents for Oversea Governments and Administrations to serve in the Public Service of Malta; or

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(1) The appointed day is 1 February 1976.

(iv) who (although not an officer falling within sub-paragraph (i), (ii) or (iii) of this paragraph) is or has been a member of Her Majesty's Overseas Civil Service, or has been a member of a former Colonial Unified Service;

and who was not a citizen of Malta on 1 April, 1971 or who, having retired from the public service or having died in public service after that date, is not or was not a citizen of Malta at the time of his retirement or death, as the case may be;

(e) "other public service" means public service not under the Government of Malta;

(f) "pension" means any pension, gratuity, 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 Malta to or in respect of any officer, or to the widow or child of any officer or to his legal personal representative;

(g) "pensionable emoluments" means:

(i) in respect of public service under the Government of Malta, emoluments which count for pension under the pensions laws;

(ii) in respect of other public service, emoluments which count for pension in accordance with the Law or Regulations in force in such service;

(h) "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 Malta at any time prior to 1 April, 1971 and enacted prior to that date;

(ii) in relation to widows' and orphans' pensions, the Widows' and Orphans' Pensions Act, Chapter 95 of the Revised Edition of the Laws of Malta and any amendments thereto in force at any time prior to 1 April, 1971 and enacted prior thereto (hereinafter referred to as Chapter 95); 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 Malta for the purposes of this Agreement;

(i) "public service" means:

(i) service in a civil capacity under the Government of Malta or 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 or the East African Railways Corporation;

(iii) service which is pensionable :

(aa) under the Overseas Superannuation Scheme; or

(bb) under any Acts 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 Malta 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;

(j) "relevant service" means public service under the Government of Malta on or after 30 July, 1962;

(k) "the taxation element" means the sum accepted by the two Governments as being equivalent to the proceeds of income tax or any similar tax received by the Government of Malta on any sums which are reimbursable in accordance with sub-paragraph (1) (d) of Article 3;

(l) "widows' and orphans' pensions" means pensions payable under Chapter 95.

## 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 Malta 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

1. 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 sub-paragraph (b) of this 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 Malta should be adjudged by the order of a competent court of law having jurisdiction in Malta to be liable to pay to or in respect of an officer or the widow or child or legal 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 Malta 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;
- (d) that they shall reimburse the Government of Malta, in accordance with such procedure as may be mutually arranged between the two Governments, the aggregate amount, less the taxation element, of the following payments due on or after 1 April, 1971, being amounts due under the pensions laws, and made by the Government of Malta to or in respect of officers: the full cost of payments representing that proportion of a pension or gratuity payable to or in respect of an officer which accrues from public service under the Government of Malta before 30 July, 1962.

2. For the purposes of sub-paragraph (1) (d) of this Article, the proportion of a pension or gratuity which accrues from public service under the Government of Malta before 30 July, 1962 is that proportion which the total pensionable emoluments received by an officer from his public service under the Government of Malta prior to 30 July, 1962 bears to his total pensionable emoluments received from all his public service under that Government.

## ARTICLE 4

### **Obligations of the Government of Malta**

1. The Government of Malta undertake :
  - (a) that they shall remain responsible for any instalments of pension granted to or in respect of an officer which remain 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 to or in respect of an officer 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 Malta 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, that part of the sum which would represent the Malta element of such pension 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.

2. The sums payable under sub-paragraphs (1)(c)(i) and (1)(c)(ii) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Malta and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Malta would have received in respect of the Malta element of the pension.

## 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 This Agreement**

If the Government of the United Kingdom and the Government of Malta 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 decision.

## 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 on the later of these two notifications<sup>(2)</sup>.

## ARTICLE 8

### Citation

This Agreement may be cited as the Public Officers' Pensions (Malta) Agreement 1976.

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

Done in duplicate at Valletta this 27th day of January, 1976 in the English language.

ROBIN HAYDON

A. P. GALDES

For the Government of the United Kingdom of Great Britain and Northern Ireland      For the Government of the Republic of Malta

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<sup>(2)</sup> The Agreement entered into force on 27 January 1976.