



Treaty Series No. 99 (1976)

Agreement

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

Victoria, 29 June 1976

[The Agreement entered into force on 29 June 1976]

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

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Seychelles 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”⁽¹⁾ means the day mutually arranged between the Government of the United Kingdom and the Government of Seychelles;
- (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 (Seychelles) Agreement 1961⁽²⁾, or any agreement or arrangement amending or replacing the same;
- (e) “officer” means a person who was at any time before 29 June 1976 the substantive holder of a pensionable office in the public service of Seychelles, and whose conditions of service before that date included an entitlement to free passages from Seychelles 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 Seychelles by a Secretary of State; or
 - (ii) whose appointment to the public service of Seychelles 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 Seychelles; or
 - (iv) who (although not a person falling within heads (i), (ii) or (iii) of this sub-paragraph) is or has been a member of Her Majesty's Overseas Civil Service or Her Majesty's Overseas Judiciary, or has been a member of a former Colonial Unified Service, or is or was a designated officer for the purposes of the Overseas Service (Seychelles) Agreement 1961, or any agreement or arrangement amending or replacing that Agreement, and who,

⁽¹⁾ The appointed day is 29 June 1976.

⁽²⁾ Not published in Treaty Series.

- (v) does not become a citizen of Seychelles on 29 June 1976; or
 - (vi) retires from public service or dies in the public service after 29 June 1976 and is not a citizen of Seychelles at the time of his retirement or death, as the case may be; or
 - (vii) being a citizen of the United Kingdom and Colonies, a national of a foreign country or a citizen of a Commonwealth country other than Seychelles or the United Kingdom and Colonies who becomes a citizen of Seychelles on 29 June 1976 by operation of law, renounces his citizenship of Seychelles in accordance with the relevant law not later than 30 December 1976;
- (f) "other public service" means public service not under the Government of Seychelles;
- (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 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 Seychelles, 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) 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 Seychelles at any time prior to 29 June 1976 and enacted prior to that date;
 - (ii) in relation to widows' and orphans' pensions,
 - (aa) the Widows' and Orphans' Pensions Ordinance, Chapter 189 of the Revised Edition of the Laws of Seychelles and any amendments thereto in force at any time prior to 29 June 1976 and enacted prior to that date (hereinafter referred to as "Chapter 189"); and
 - (bb) the Widows' and Children's Pensions Ordinance, Chapter 27 of the Laws of Seychelles and any amendments thereto in force at any time prior to 29 June 1976 and enacted prior to that date (hereinafter referred to as "Chapter 27"); 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 Seychelles for the purposes of this Agreement;

- (j) "public service" means:
- (i) service in a civil capacity under the Government of Seychelles 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 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 Seychelles 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 Seychelles on or after 29 June 1976;
- (l) "the Seychelles 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 Seychelles which have been taken into account in determining the amount of that pension;
- (m) "widows' and orphans' pensions" means pensions payable under Chapter 189 or Chapter 27.

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 Seychelles 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 and widows' and orphans' 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 and widows' and orphans' 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 Seychelles 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 Seychelles;
 - (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 Seychelles after 29 June 1976, 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 29 June 1976;

- (e) that if the Government of Seychelles should be adjudged by the order of a competent court of law having jurisdiction in Seychelles 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 or widows' and orphans' 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 Seychelles 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 or widows' and orphans' 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 Seychelles

- (1) Government of Seychelles undertake :
- (a) that the conditions of service applicable to an officer who continues to be the substantive holder of a pensionable officer in the public service of Seychelles 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 or widows' and orphans' pension granted to or in respect of an officer which remain unpaid on the appointed day shall be paid in accordance with the pensions 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 or widows' and orphans' pension to or in respect of an officer or a widow or child or legal personal representative of an officer otherwise than 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 (other than a widows' and orphans' pension awarded under Chapter 189) awarded before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Seychelles element of such pension;
- (ii) in respect of a widows' and orphans' pension awarded under Chapter 27 on or after the appointed day in respect of an officer who retired before the appointed day, a sum representing the cost, if any, of the Seychelles element of such pension;

- (iii) in respect of any pension (other than a widows' and orphans' pension payable under Chapter 189) awarded on or after the appointed day to or in respect of an officer :
- (aa) that part of the sum which would represent the Seychelles 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;
- (iv) in respect of widows' and orphans' pensions (other than widows' and orphans' pensions payable under Chapter 27) such stocks, funds, securities or moneys as represent the interest in the Widows' and Orphans' Pension Fund established under Chapter 189 of contributory officers and their potential beneficiaries alive on the appointed day and the beneficiaries alive on the appointed day of deceased contributory officers.

(2) The sums payable under sub-paragraphs (1) (e) (i), (1) (e) (ii), (1) (e) (iii) (aa) and (1) (e) (iv) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Seychelles and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Seychelles would have received in respect of the Seychelles 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 (Seychelles) Agreement 1961, and any agreement or arrangement amending or replacing the same, relating to the reimbursement of the Government of Seychelles 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 Seychelles 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 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^(*).

ARTICLE 9

Citation

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

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

Done in duplicate at State House Victoria this Twenty-ninth day of June, Nineteen hundred and Seventy-six.

J. A. PUGH

J. R. MANCHAM

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

For the Government of Seychelles

^(*) The Agreement entered into force on 29 June 1976.