



Treaty Series No. 38 (1986)

# Agreement ✓

between the Government of the United Kingdom of  
Great Britain and Northern Ireland and the Government  
of the Republic of Zambia

## concerning Public Officers' Pensions

(Public Officers' Pensions (Zambia) Agreement 1978)

Lusaka, 8 August 1978 as modified by the Exchange ✓  
of Notes Lusaka, 10 May and 30 December 1983 and  
the Exchange of Notes Lusaka, 5 September 1985 ✓

[The Agreement entered into force on 14 April 1982. The 1983 Exchange of Notes entered into force  
on 30 December 1983]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
August 1986*

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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 ZAMBIA CONCERNING  
PUBLIC OFFICERS' PENSIONS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Zambia have agreed as follows:

**ARTICLE I**

**Interpretation**

- (1) 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 Zambia<sup>(1)</sup>;
  - (c) "inducement allowance" means any inducement allowance which is pensionable under the pensions laws enjoyed by an officer under the Overseas Service (Northern Rhodesia) Agreement 1961<sup>(2)</sup>, or any agreement or any arrangement amending or replacing the same;
  - (d) "officer" means an officer or re-employed officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the Government of Zambia signed at Lusaka on 24 October 1964<sup>(3)</sup> (hereinafter referred to as "the Public Officers Agreement") applies or applied and who was not a citizen of Zambia 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 Zambia 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 Zambia;
  - (f) "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 Zambia 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":
    - (i) in respect of public service under the Government of Zambia, 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 law or regulations in force in such service;

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<sup>1</sup> The appointed day is 1 November 1985

<sup>2</sup> Zambia No. 1 (1968), Cmnd. 3554.

<sup>3</sup> Cmnd. 2543.

(h) "pensions laws" means:

- (i) in relation to pensions other than widows' and orphans' pensions:
  - (aa) any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service, and in force in Zambia at any time prior to 25 June 1973 and enacted prior to that date;
  - (bb) The Zambia (Compensation and Retiring Benefits) Order 1964 and the Non-Designated Expatriate Officers (Retiring Benefits) Act 1965;
- (ii) in relation to widows' and orphans' pensions, the Widows and Orphans Pensions Act, Chapter 402 of the Laws of Zambia 1970 Edition and the Widows' Pensions Act, Chapter 401 of the Laws of Zambia 1970 Edition and any amendments to either Act in force at any time prior to 25 June 1973 and enacted prior to that date (in this Agreement referred to respectively as "Chapter 402" and "Chapter 401"); and
- (iii) in relation to both 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 Zambia for the purposes of this Agreement;

(i) "public service" means:

- (i) service in a civil capacity under the Government of Zambia or any other country or territory in the Commonwealth;
- (ii) service under the East African 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 Zambia 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 in a civil capacity under the Government of Zambia on or after 1 May 1964;

(k) "widows' and orphans' pensions" means pensions payable under Chapter 402 or Chapter 401 of the laws of Zambia;

(l) "the Zambia element" in relation to a pension (other than compensation or interest thereon payable under the Zambia (Compensation and Retiring Benefits) Order 1964) 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 Zambia which have been taken into account in determining the amount of that pension.

(2) In relation to any period before 24 October 1964 references to the Government of Zambia shall be construed as references to the Government of Northern Rhodesia.

## 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 Zambia 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 Zambia should be adjudged by the order of a competent court of law having jurisdiction in Zambia to be liable to pay 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 Zambia 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 Zambia**

- (1) The Government of Zambia undertake:
  - (a) that they shall remain responsible for any instalments of pension 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 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 Zambia 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 Zambia 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;

(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;

(iii) in respect of widows' and orphans' pensions, such stocks, funds, securities or moneys as represent the interest in the Widows' and Orphans' Pensions Fund established under Chapter 402 of contributory officers and their potential beneficiaries alive on the appointed day and the beneficiaries alive on the appointed day of deceased contributory officers;

(d) 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 subparagraphs (1) (c) (i), (1) (c) (ii) (aa) and (1) (c) (iii) of this Article shall be actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of Zambia and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Zambia would have received in respect of the Zambia 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

(1) On and after the appointed day the provisions of the Overseas Service (Northern Rhodesia) 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 Zambia 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 the words "and shall take any action that may be necessary to preserve his pension rights when he is so transferred or promoted" in Article 8 (2) and Article 9 of the Public Officers Agreement shall cease to apply to or in respect of Officers to whom this Agreement applies.

ARTICLE 7

**Modification**

If the Government of the United Kingdom and the Government of Zambia 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 class of cases with such modifications, additions or exceptions as may be necessary to give effect to such mutual decision.

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<sup>(4)</sup>.

ARTICLE 9

**Citation**

This Agreement may be cited as the Public Officers' Pensions (Zambia) Agreement 1978.

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

Done in duplicate at Lusaka this 8th day of August 1978 [in the English language]:

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

For the Government of The Republic of Zambia:

JUDITH HART

J. M. MWANAKATWE

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<sup>4</sup> The Agreement entered into force on 14 April 1982.

**EXCHANGES OF NOTES  
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF ZAMBIA MODIFYING THE PUBLIC  
OFFICERS' PENSIONS (ZAMBIA) AGREEMENT 1978**

No. 1

*The United Kingdom High Commissioner at Lusaka to the Permanent  
Secretary, Minister of Finance, of Zambia*

*British High Commission  
Lusaka*

*10 May 1983*

Sir,

I have the honour to refer to the Public Officers' Pensions (Zambia) Agreement signed at Lusaka on 8 August 1978, under Article 2 of which the Government of the United Kingdom assumes from the Government of Zambia responsibility in respect of certain pensions. Since these pensions, in the case of certain officers, include elements in respect of which the Government of Zambia receives amounts paid from the Central African Pensions Agency to the Government of Zambia in accordance with provisions of paragraph 5 of Variation (No 1) of Schedule II to the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963, I have the honour to propose that, until such time as alternative arrangements can be made in respect of this matter, the Government of Zambia shall transfer to the Government of the United Kingdom, in accordance with such arrangements as may be made between the two governments, all such payments made to them by the Central African Pensions Agency in respect of those persons to whom the Public Officers' Pensions (Zambia) Agreement 1978 applies.

If this proposal is acceptable to the Government of Zambia, I further propose that this Note and your reply in that sense shall constitute a modification of the Public Officers' Pensions (Zambia) Agreement 1978 in accordance with Article 7 thereof, which shall enter into force on the date of your reply.

I am

Sir

Your obedient Servant

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

J. JOHNSON

No. 2

*The Minister of Finance of Zambia to the United Kingdom  
High Commissioner at Lusaka*

*Ministry of Finance  
Lusaka*

*30 December 1983*

Your Excellency,

I have the honour to refer to your Excellency's note of 10th May, 1983 concerning the Public Officers' Pensions (Zambia) Agreement 1978 which reads as follows:

[As in No. 1]

I have the honour to confirm that the proposals made therein by Her Majesty's Government are acceptable to the Government of Zambia, who therefore agree that your letter, together with this reply, should constitute a modification of the Public Officers' Pensions (Zambia) Agreement 1978, in accordance with Article 7 thereof, which shall enter into force on this day's date.

Yours in the National Service,

L. J. MWANANSHIKU

No. 3

*The Acting United Kingdom High Commissioner at Lusaka to the Minister,  
Ministry of Finance, of Zambia*

*British High Commission  
Lusaka*

*5 September 1985*

Sir,

I have the honour to refer to Article 7 of the Public Officers' Pensions (Zambia) Agreement 1978 signed at Lusaka on 8 August 1978, and to propose that our two Governments should mutually decide in accordance with that Article that the Agreement shall be modified as follows. Sub-paragraph (1) (h) (ii) of Article 1 of the Agreement shall be deleted and replaced by the following sub-paragraph:

“(ii) in relation to widows' and orphans' pensions, the Widows and Orphans Pensions Act, Chapter 402 of the laws of Zambia 1970 Edition, the Widows' Pensions Act, Chapter 401 of the Laws of Zambia 1970 Edition and the Transferred Federal Officers (Dependents) Pensions Act, Chapter 406 of the Laws of Zambia 1970 Edition and any amendments to those Acts in force at any time prior to 25 June 1973 and enacted prior to that date (in this Agreement referred to respectively as “Chapter 402” “Chapter 401” and “Chapter 406”);”

and sub-paragraph (1) (k) of Article 1 of the Agreement shall be deleted and replaced by the following sub-paragraph:

“(k) Widows’ and orphans’ pensions means pensions payable under Chapter 402, Chapter 401 or Chapter 406 of the Laws of Zambia;”

If the foregoing proposal is acceptable to the Government of the Republic of Zambia, I have the honour to propose that this Note and your Excellency’s reply to that effect shall constitute the mutual decision of our two Governments to modify the Agreement in accordance with Article 7 thereof.

I am Sir,

Your obedient Servant

R. S. GORHAM

No. 4

*The Minister, Ministry of Finance, of Zambia to the United Kingdom  
High Commissioner at Lusaka*

MF/101/30/7

*Ministry of Finance*

*Lusaka*

*5 September 1985*

Your Excellency,

I have the honour to acknowledge your Note of 5th September which reads as follows:—

[As in No. 3]

In reply, I have the honour to confirm that the foregoing proposals are acceptable to the Government of the Republic of Zambia, who therefore agree that your Note and this reply shall constitute the mutual decision of our two Governments to modify the Agreement in accordance with Article 7 thereof.

Yours sincerely,

L. J. MWANANSHIKU

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