

TRINIDAD
AND
TOBAGO



Treaty Series No. 63 (1986)

Agreement ✓

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the
Republic of Trinidad and Tobago
Concerning Public Officers' Pensions

Port of Spain, 29 July 1986

[The Agreement entered into force on 27 October 1986]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 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 TRINIDAD AND TOBAGO
CONCERNING PUBLIC OFFICERS' PENSIONS**

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

ARTICLE I

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 1st November, 1986;
- (c) "inducement allowance" means any inducement allowance enjoyed by an overseas officer under the Overseas Service (Trinidad and Tobago) Agreement 1961, or any agreement or arrangement amending or replacing the same;
- (d) "officer" means an officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the Government of Trinidad and Tobago signed at London on 6th October, 1960 and 14th November, 1960⁽¹⁾ as amended by the exchange of letters between the Government of the United Kingdom and the Government of Trinidad and Tobago dated 22nd November, 1963 and 9th May, 1964⁽²⁾ (hereinafter referred to as "the Public Officers Agreement") applies or applied and who was not a citizen of Trinidad and Tobago on 1st 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 Trinidad and Tobago 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 the Republic of Trinidad and Tobago;
- (f) "pension" means any pension, gratuity, compensation and interest thereon, retiring allowance or other like benefit, or any increase of pension, payable under the pensions laws by the Government of the Republic of Trinidad and Tobago 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 Trinidad and Tobago means emoluments which count for pension under the pension laws;

⁽¹⁾ Not published.

⁽²⁾ Treaty Series No. 43 (1967), Cmnd. 3280.

- (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;
- (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 Trinidad and Tobago at any time prior to 1st April, 1971 and enacted prior to that date [including the Trinidad and Tobago (Voluntary Retirement and Compensation) Regulations, 1962];
 - (ii) in relation to widows' and orphans' pensions, the Widows' and Orphans' Pension Act, Chapter 23:54 (formerly Chapter 9 No. 8) of the 1981 Revision of the Laws of the Republic of Trinidad and Tobago and any amendments thereto in force at any time prior to 1st April, 1971 and enacted prior thereto (hereinafter referred to as "Chapter 23:54");
 - (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 the Republic of Trinidad and Tobago for the purposes of this Agreement;
- (i) "public service" means:
- (i) service in a civil capacity under the Government of Trinidad and Tobago or any of its predecessor Governments 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 Acts relating to 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 Republic of Trinidad and Tobago 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 East 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 Trinidad and Tobago on or after 31st August, 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 Trinidad and Tobago on any sums which are reimbursable in accordance with sub-paragraph (1)(d) of Article 3;
- (l) "the Trinidad and Tobago element" in relation to a pension [other than compensation or interest thereon payable under the Trinidad and Tobago (Voluntary Retirement and Compensation) Regulations, 1962 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 Trinidad and Tobago which have been taken into account in determining the amount of that pension;
- (m) "widows' and orphans' pensions" means pensions payable under Chapter 23:54.

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 Republic of Trinidad and Tobago 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 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 there shall not be applied to or in respect of any officer different provisions from those contained in the pensions laws (other than any provisions, expressed 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 the Republic of Trinidad and Tobago should be adjudged by the order of a competent court of law having jurisdiction in the Republic of Trinidad and Tobago 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 the Republic of Trinidad and Tobago 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 the Republic of Trinidad and Tobago, 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 1st April, 1971, being amounts due under pensions laws, and made by the Government of Trinidad and Tobago to or in respect of officers:
 - (i) 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 Trinidad and Tobago before 31st August, 1962;
 - (ii) such proportion (if any) of the cost of payments representing that part of the pension or gratuity payable to or in respect of an officer which accrues from public service under the Government of Trinidad and Tobago on or after 31st August, 1962, as is attributable to his pensionable inducement allowance;
 - (iii) the full cost of payments representing compensation to an officer.
- (2) For the purpose of sub-paragraph (1)(d) of this Article:
- (a) the proportion of a pension or gratuity which accrues from public service under the Government of Trinidad and Tobago before 31st August, 1962 is that proportion which the total pensionable emoluments received by

an officer from his public service under the Government of Trinidad and Tobago prior to 31st August, 1962, bears to his total pensionable emoluments received from all his public service under that Government;

- (b) subject to sub-paragraph (c) of this paragraph the proportion of a pension or gratuity which is attributable to inducement allowance is that proportion which the total pensionable inducement allowance received by an officer during his relevant service bears to the total pensionable emoluments received by him from all his public service under the Government of Trinidad and Tobago;
- (c) in respect of a pension arising from death resulting from an injury on duty or an injury pension, being a pension which results from an occurrence during relevant service, the proportion which is attributable to inducement allowance is that proportion of the pensions which the rate of the officer's pensionable inducement allowance at the date of his injury bears to the rate of his total pensionable emoluments at that date.

ARTICLE 4

Obligations of the Government of the Republic of Trinidad and Tobago

- (1) The Government of the Republic of Trinidad and Tobago 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 Trinidad and Tobago 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 Trinidad and Tobago 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 jointly by two actuaries, one nominated by the Government of the United Kingdom, the other by the Government of the Republic of Trinidad and Tobago and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of the Republic of Trinidad and Tobago would have received in respect of the Trinidad and Tobago 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 (Trinidad and Tobago) Agreement, 1961, and any agreement or arrangement amending or replacing the same, relating to the reimbursement of the Government of the Republic of Trinidad and Tobago 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, 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 7(2) of the Public Officers Agreement shall cease to apply to or in respect of officers to whom this Agreement applies.

ARTICLE 7

Modification of this Agreement

If the Government of the United Kingdom and the Government of the Republic of Trinidad and Tobago 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 arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the date on the latter of these two notifications⁽¹⁾.

ARTICLE 9

Citation

This Agreement may be cited as the Public Officers' Pensions (Trinidad and Tobago) Agreement 1986.

⁽¹⁾ The Agreement entered into force on 27 October 1986.

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

Done in duplicate at Port-of-Spain this 29th day of July, 1986.

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

MARTIN BERTHOUD

T. A. HAREWOOD

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