



Treaty Series No. 17 (1987)

Agreement

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

concerning Public Officers' Pensions
(The Public Officers' Pensions
(Pakistan) Agreement 1986)

Islamabad, 20 March 1986

[The Agreement entered into force on 1 July 1986]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 1987*

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN
CONCERNING PUBLIC OFFICERS' PENSIONS**

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of the Islamic Republic of Pakistan (hereinafter referred to as "the Government of Pakistan") 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 Pakistan;
 - (c) "the Pakistan element" in relation to a pension means:
 - (i) in respect of a pension arising from death resulting from a wound, injury or disease received or contracted on duty, or a pension arising from such wound, injury or disease, being a pension awarded under the Civil Service Regulations or any Regulations or Rules amending or replacing these Regulations 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 official during his relevant service bears to the total pensionable emoluments enjoyed by him throughout his public service;
 - (d) "official" means:
 - (i) an officer appointed to the service of the Crown in a civil capacity by the Secretary of State for India or the Governor General of India; or
 - (ii) an officer or Warrant officer of the Armed Forces of India or an officer of the Indian Medical Service; or
 - (iii) a non-commissioned officer or other rank of the Armed Forces of India in receipt of a disability pension under the Royal Warrant; and who receives a pension in respect of service which:
 - (aa) ended before 15 August 1947; or
 - (bb) terminated as a result of the Indian Independence Act 1947; or
 - (cc) began before 15 August 1947 and was rendered by a person who, in the opinion of the Government of the United Kingdom, was domiciled outside Asia at the time of appointment; and who was not a citizen of Burma, India or

Pakistan or a national of South Yemen on 1 April 1971 or on the date of his death if earlier or who, having retired from the public service after 1 April 1971, was not a citizen of Burma, India or Pakistan or a national of South Yemen at the time of his retirement;

- (e) "pension" means any pension or gratuity, or any retiring allowance or other like benefit, or any increase of pension, payable under the Regulations and Rules governing the award of pensions by the Government of Pakistan or any of its predecessor Governments to or in respect of any official;
- (f) "pensionable emoluments" means the pay or salary of the official and, where pension is determined by reference to emoluments any other emoluments taken into account in determining the pension of the official;
- (g) "Regulations and Rules governing the award of pensions" means:
 - (i) Any Regulations and Rules in force in Pakistan at any time prior to 1 April 1971 and enacted prior to that date providing for pensions in respect of public service, and any law providing for such pensions enacted after that date and accepted by the Government of the United Kingdom for the purposes of this Agreement; and
 - (ii) any other law, regulation, rule or administrative direction accepted by the Government of the United Kingdom and the Government of Pakistan for the purpose of this Agreement;
- (h) "public service" means service in a civil or military capacity under the Government of Pakistan or any of its predecessor Governments;
- (i) "relevant service" means public service under the Government of Pakistan on or after 15 August 1947;
- (j) "the taxation element" means the sum accepted by the two Governments as being equivalent to the proceeds of income tax or any similar direct tax received by the Government of Pakistan on any sums which are reimbursable in accordance with sub-paragraph (1)(d) of Article 3.

(2) In relation to any period before 15 August 1947 references to Pakistan or to the Government of Pakistan shall be construed as references to India or the Government of India as appropriate.

ARTICLE 2

Assumption of Responsibility by the Government of the United Kingdom

As from the appointed day⁽¹⁾ the Government of the United Kingdom shall assume from the Government of Pakistan 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, to or in respect of officials.

⁽¹⁾ The appointed day is 1 July 1986.

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 Regulations and Rules governing the award of pensions, 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 any official different provisions from those contained in the Regulations and Rules governing the award of pensions (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 Pakistan should be adjudged by the order of a competent court of law having jurisdiction in Pakistan to be liable to pay to or in respect of an official 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 Pakistan 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 Pakistan in accordance with such procedures 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 Regulations and Rules governing the award of pensions, and made by the Government of Pakistan to or in respect of officials:
 - (i) the full cost of payments representing that proportion of a pension (other than a pension awarded under the Civil Service Regulations or any Regulations or Rules amending or replacing these Regulations arising from death resulting from a wound, injury or disease received or contracted on duty, or a pension arising from a wound, injury or disease not resulting in death) or gratuity payable to or in respect of the official which accrues from public service before 15 August 1947;

- (ii) the full cost of payments representing a pension awarded under the Civil Service Regulations or any Regulations or Rules amending or replacing these Regulations arising from death resulting from a wound, injury or disease received or contracted on duty, or a pension arising from a wound, injury or disease not resulting in death being a wound, injury or disease received or contracted before 15 August 1947.

(2) For the purpose of sub-paragraph (1)(d)(i) of this Article the proportion of a pension or gratuity which accrues from public service before 15 August 1947 is that proportion which the total pensionable emoluments received by the official from his public service prior to 15 August 1947 bears to his total pensionable emoluments received from all his public service.

ARTICLE 4

Obligations of the Government of Pakistan

- (1) The Government of Pakistan undertake:
 - (a) that they shall remain responsible for any instalments of pension granted to or in respect of an official 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 official otherwise than in accordance with the terms of this Agreement;
 - (c) that they shall pay the Government of the United Kingdom in accordance with such arrangements as may be accepted by the two Governments, in respect of any pension awarded before the appointed day to or in respect of an official or which may be awarded on or after the appointed day to a widow or child of an official, a sum representing the cost, if any, of the Pakistan element of such pensions;
 - (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) Each of the sums payable under sub-paragraph (1)(c) of this Article shall be actuarially determined jointly by two actuaries, one nominated by the Government of the United Kingdom, the other nominated by the Government of Pakistan and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Pakistan would have received in respect of the Pakistan element of the pensions.

ARTICLE 5

Limitation on the Obligations of the Government of the United Kingdom and the Government of Pakistan

Paragraphs (1)(c), (d)(i) and (d)(ii) of Article 3 and Paragraphs (1)(a) and (c) of Article 4 do not apply in the case of any pension falling within Article 2 which derives from service in any part of the territory now comprised in Bangladesh.

ARTICLE 6

Exclusions

Nothing in this Agreement shall prejudice the right of the Government of Pakistan to continue to benefit from the annuity arrangements finalized by the Exchange of Letters on 14 July 1948⁽²⁾ between the Chancellor of the Exchequer of the United Kingdom and the Finance Minister of Pakistan extending the Financial Agreement of 14 August 1947⁽²⁾.

ARTICLE 7

Modification of this Agreement

If the Government of the United Kingdom and the Government of Pakistan 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 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 day following the receipt of the later of these two notifications⁽³⁾.

ARTICLE 9

Citation

This Agreement may be cited as the Public Officers' Pensions (Pakistan) Agreement 1985⁽⁴⁾.

⁽²⁾ Cmd. 7195.

⁽³⁾ The Agreement entered into force on 1 July 1986.

⁽⁴⁾ In notes exchanged at Islamabad dated 22 June and 7 July 1986, it was agreed by the two Governments, that the Agreement be cited as the Public Officers' Pensions (Pakistan) Agreement 1986.

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

Done in duplicate at Islamabad this 20th day of March, 1986.

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

R. A. FYJIS-WALKER

H. U. BEG

Printed by Her Majesty's Stationery Office

Dd 701116 C7 4/87 3165835

ISBN 0 10 101162 8