



Treaty Series No. 14 (1976)

Agreement

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

Port Louis, 3 July 1975

[The Agreement entered into force on 31 July 1975]

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

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Mauritius 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" means the day mutually arranged between the Government of the United Kingdom and the Government of Mauritius;⁽¹⁾
- (c) "inducement allowance" means any inducement allowance enjoyed by an officer under the Overseas Service (Mauritius) Agreement, 1961⁽²⁾, or agreement or arrangement amending or replacing the same;
- (d) "the Mauritius element" in relation to a pension (other than compensation or interest thereon payable under the Mauritius Compensation and Retiring Benefits Order 1967 or a widows' and orphans' pension awarded under Chapter 342) 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 Mauritius which have been taken into account in determining the amount of that pension;
- (e) "officer" means an officer to whom the Public Officers' Agreement between Her Majesty's Government in the United Kingdom and the Government of Mauritius signed at Port Louis on 12 March 1968⁽³⁾ (hereinafter referred to as "the Public Officers' Agreement") applies or applied and who was not a citizen of Mauritius on 1 April 1971 or

⁽¹⁾ The appointed day is 1 August 1975.

⁽²⁾ Not published.

⁽³⁾ Treaty Series No. 49 (1968), Cmnd. 3668.

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

- (f) "other public service" means public service not under the Government of Mauritius;
- (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 by the Government of Mauritius 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 Mauritius, includes:
 - (aa) salary;
 - (bb) inducement allowance;
 - (cc) personal allowance; and
 - (dd) house allowance;but does not include duty allowance, entertainment allowance or any other emoluments whatever;
 - (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;
- (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 Mauritius at any time prior to 14 January 1972 and enacted prior to that date;
 - (ii) in relation to widows' and orphans' pensions, the Widows' and Orphans' Pensions Fund Ordinance, Chapter 342 of the Revised Ordinances of Mauritius 1945 and any amendments thereto in force at any time prior to 14 January 1972 and enacted prior to that date (in this Agreement referred to as "Chapter 342"), and the Widows' and Children's Pensions Scheme Act, 1969, Act No. 16 of 1969, and any amendments thereto in force at any time prior to 14 January 1972 and enacted prior to that date (hereinafter referred to as "Act No. 16"); and
 - (iii) in relation both to pensions and to widows' and orphans' pensions, any other law, regulation or administrative direction accepted by the Government of the United Kingdom and the Government of Mauritius for the purposes of this Agreement;
- (j) "public service" means:
 - (i) service in a civil capacity under the Government of Mauritius 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 Mauritius 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 Mauritius on or after 12 August 1967;
- (l) "widows' and orphans' pensions" means pensions payable under Chapter 342 or Act No. 16.

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 Mauritius 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 Mauritius should be adjudged by the order of a competent court of law having jurisdiction in Mauritius 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 Mauritius 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 Mauritius

- (1) The Government of Mauritius 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 under Chapter 342) awarded before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Mauritius element of such pension;
 - (ii) in respect of any pension (other than a widows' and orphans' pension awarded under Chapter 342) awarded on or after the appointed day to or in respect of an officer,
 - (aa) that part of the sum which would represent the Mauritius 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; 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;

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

ARTICLE 5

Modification of previous Agreements

(1) On and after the appointed day the provisions of the Overseas Service (Mauritius) 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 Mauritius 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 Articles 8 (3) and 9 of the Public Officers' Agreement shall cease to apply to or in respect of officers to whom this Agreement applies.

ARTICLE 6

Modification of this Agreement

If the Government of the United Kingdom and the Government of Mauritius 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 of 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.⁽⁴⁾

(4) The Agreement entered into force on 31 July 1975.

ARTICLE 8

Citation

This Agreement may be cited as the Public Officers' Pensions (Mauritius) Agreement 1975.

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

Done in duplicate at Port Louis at Twelve noon this Third day of July 1975 (in the English language)

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

For the Government of Mauritius:

A. H. BRIND

British High Commissioner

S. RAMGOOLAM

Prime Minister

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