

THE OFFICIAL GAZETTE — 24TH MARCH, 1976
LEGAL SUPPLEMENT — C

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.

24th March, 1976.

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain.
Clerk of the National Assembly.



GUYANA

BILL No. 7 of 1976

PENSIONS (AMENDMENT) BILL 1976

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Amendment of section 2 of Chapter 27:02.
3. Amendment of section 4 of Chapter 27:02.
4. Amendment of section 8 of Chapter 27:02.
5. Repeal and re-enactment of section 11 of Chapter 27:02.
6. Amendment of section 16 of Chapter 27:02.
7. Amendment of section 22 of Chapter 27:02.
8. Amendment of section 23 of Chapter 27:02.
9. Amendment of the Pensions Regulations 1957.

A BILL

Intituled

AN ACT to amend the Pensions Act.

A.D. 1976. Enacted by the Parliament of Guyana:—

Short title
and com-
mencement.

1. (1) This Act, which amends the Pensions Act, may be cited as the Pensions (Amendment) Act 1976.

Cap. 27:02.

(2) Section 2, in so far as it relates to the reckonability as pensionable emoluments of —

- (a) the surcharge allowance paid to a pilot employed in the Transport and Harbours Department, shall be deemed to have come into operation on 1st January, 1969;
- (b) the duty allowance paid to a Permanent Secretary, shall be deemed to have come into operation on 1st January, 1973.

(3) Regulation 6 of the Pensions Regulations 1957, as amended by section 9(a), shall apply to officers in the public service on or after 1st October, 1974.

(4) Regulation 6 of the Pensions Regulations 1957, as amended by section 9(b), shall be deemed to have come into operation on 1st July, 1973.

(5) Regulation 17(1) of the Pensions Regulations 1957, as amended by section 9(h), shall be deemed to have come into operation on 1st July, 1975.

(6) Regulation 17(3) of the Pensions Regulations 1957, as amended by section 9(i), shall be deemed to have come into operation on 1st January, 1973.

Amendment
of section
2 of
Chapter
27:02.

2. Section 2 of the Principal Act is hereby amended by the substitution of the following paragraph for paragraph (a) in the definition of the expression "pensionable emoluments" —

- "(a) in respect of service in Guyana includes —
- (i) salary;
 - (ii) personal allowance;
 - (iii) duty allowance paid to a Permanent Secretary:

Provided that this subparagraph shall not be construed as applying to the Solicitor-General;

- (iv) surcharge allowance paid to a pilot employed in the Transport and Harbours Department;
- (v) such portion of the inducement allowance as the Government of the United Kingdom and the Government of Guyana may, from time to time, by agreement determine to be pensionable,

but does not include any duty allowance paid to any other officer, or any entertainment allowance or any other emoluments whatever;”.

3. Section 4(3) of the Principal Act is hereby amended by the insertion of the words “the head of a department not under the control of a Minister or is” after the words “and, if he is”.

Amendment
of section
4 of
Chapter
27:02.

4. Section 8 of the Principal Act is hereby amended in the following respects —

Amendment
of section
8 of Chapter
27:02.

(a) by the substitution of the following paragraph for paragraph (a) —

“(a) on or after attaining the age of fifty-five years or, in special cases with the approval of the Minister on or after attaining the age of fifty years or, in special cases as mentioned in the proviso to section 11, or in the case of transfer to other public service on or after attaining the age at which an officer is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity or on or after attaining the age of fifty-five years, whichever is earlier;”;

(b) by the substitution of the following proviso for the proviso thereto —

“Provided that —

(a) where an officer retires from the public service under paragraph (d) after completing ten years’ pensionable service (reckoned otherwise than in accordance with regulation 7(2) (b)) the pension, gratuity or other allowance granted to him shall, save as otherwise provided under regulation 7,

be computed as though such officer had completed twenty years' pensionable service prior to retirement;

- (b) after the enactment of the Pensions (Amendment) Act 1976, a gratuity may be granted in accordance with regulations 18 and 27 of the Pensions Regulations 1957 to an unmarried female officer who is in the public service at the time of the enactment of the said Act and who resigns from the public service on or with a view to marriage notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance.”.

Repeal and re-enactment of section 11 of Chapter 27:02.

5. Section 11 of the Principal Act is hereby repealed and the following section substituted therefor —

- “Age for compulsory retirement. 11. The Public Service Commission may require an officer to retire from the service of Guyana on or after attaining the age of fifty-five years:

Provided that in special cases the Public Service Commission may require an officer to retire from the service of Guyana at any time on or after attaining the age of fifty years.”.

Amendment of section 16 of Chapter 27:02.

6. Section 16 of the Principal Act is hereby amended by the substitution of a comma for the full stop at the end of the section and the addition thereafter of the words “or later with the permission of the Minister.”.

Amendment of section 22 of Chapter 27:02.

7. Section 22 of the Principal Act is hereby amended in the following respects —

- (a) by the deletion of the words “and of good character” from subparagraph (i) of subsection (1);
- (b) by the deletion of the words “of good character and” from subparagraph (v) of subsection (1);
- (c) by the substitution of the following subsection for subsection (3) —

“(3) For the purposes of this section —

- (a) the word “child” shall include —
 - (i) a posthumous child;
 - (ii) a step-child, or a child born out of lawful wedlock before the date of the

injury, and wholly or mainly dependent upon the deceased officer for support;

- (iii) an adopted child adopted in a manner recognised by law before the date of injury and dependent as aforesaid;
- (b) "father" includes any person who, for the purpose of establishing that the relationship of father and child existed between himself and an officer, produces evidence to the satisfaction of the Minister that during the lifetime of the officer he had acknowledged that he was the father of the officer;
- (c) "widow" includes —
 - (i) a widower;
 - (ii) a single woman or widow who was living with a single officer or with a widower who was an officer as his reputed wife at the date of the injury and whom the Minister treats as if she were in law his widow, and for the purposes of this subparagraph "widower" shall be construed accordingly."

8. Section 23 of the Principal Act is hereby amended by the deletion of subsection (2) and the substitution of the following subsection therefor —

Amendment
of section
23 of
Chapter
27:02.

"(2) The Minister may, by order which shall be subject to negative resolution of the National Assembly, designate service in any institution or organisation as service which may be taken into account as if it had been service of Guyana for the purposes of subsection (1) and an order made under this subsection may be expressed to apply to service given in an institution or organisation prior to the enactment of this Act."

9. The Pensions Regulations 1957 (contained in the schedule to the Principal Act) are hereby amended in the following respects —

Amendment
of the
Pensions
Regu-
lations
1957.

- (a) by the substitution of the following proviso for the proviso to regulation 6(1) —

"Provided that any interruption in service caused by —

- (a) temporary suspension of employment not arising from misconduct; or
- (b) voluntary resignation (whether before or after 1st October, 1974) in circumstances other than as mentioned in paragraph (2) followed by re-employment in the public service at any time thereafter,

shall be disregarded for the purposes of this paragraph of this regulation but only with the approval of the Minister in respect of the circumstances to which paragraph (b) of this proviso applies.”;

- (b) by renumbering paragraphs (2) and (3) of regulation 6 as paragraphs (3) and (4), respectively, and by inserting the following paragraph as paragraph (2) thereof —

“(2) If an officer —

- (a) resigned from the public service not earlier than one month prior to the date on which lists of candidates may be submitted to the Chief Elections Officer in order to become qualified for election as a member of the National Assembly;
- (b) was a candidate at the elections; and
- (c) failed to be elected,

he shall, if on application made by him he is re-employed in the public service within two months after the notification by the Elections Commission in the Gazette of the result of the election, be deemed for the purposes of this regulation to have been employed in the public service as if he had not resigned and as if during the period commencing with the effective date of his resignation and ending on the day immediately preceding his re-employment he had been on leave of absence without pay, and that period shall be taken into account as qualifying service.”;

- (c) by renumbering regulation 7 as regulation 7(1) and adding the following subparagraph as subparagraph (g) thereof —

“(g) any period during which a female officer has been absent from duty by reason of the grant to her of maternity leave with salary whether at the full rate or otherwise;”;

- (d) by inserting the following paragraphs as paragraphs (2), (3), (4) and (5), respectively, of regulation 7 —

“(2) For the purpose of computing the amount of pension of a Judge of the Supreme Court of Judicature, or the Solicitor-General, or the Director of Public Prosecutions, or the Chief Parliamentary Counsel —

- (a) the pension granted to him shall be equal to the maximum pension which may be granted to an officer as provided by section 12 of the Act, if he retires from any such office after completing fifteen years' pensionable service in any such office (reckoned otherwise than in accordance with subparagraph (b)) or that length of service in the aggregate in more than one such office and —
- (i) in the case of a Judge of the Supreme Court of Judicature if he retires on attaining the age at which he is required by the Constitution to vacate that office;
- (ii) in the case of the Solicitor-General, the Director of Public Prosecutions, or the Chief Parliamentary Counsel, if he retires on attaining the age of sixty-five years;
- (b) pensionable service in any of the aforementioned offices shall be so reckoned as if every year of pensionable service were counted as two years of pensionable service,

if the holder retires therefrom on attaining the age specified in subparagraph (a):

Provided that the Minister may, if he thinks fit, having due regard to the special circumstances of any particular case, grant to the holder of any such office who —

- (i) has completed the minimum period of service required for the purposes of subparagraph (a), the benefits conferred by that subparagraph;
- (ii) has not completed that minimum period of service, the benefits conferred by subparagraph (b),

notwithstanding that he retires therefrom on or after attaining the age of fifty years but before attaining the age specified in subparagraph (a).

- (3) The Minister may, by order, direct that with effect from such date as may be specified in the order, paragraph (2) shall apply to the holder of such other office (being an office connected with the courts of Guyana or for the appointment to which legal qualifications are required) enjoying conditions of service which taken as a whole are, in the opinion of the Minister, not less favourable than those enjoyed by the holder of the office of Judge of the High Court, as the said paragraph applies to the holder of an office mentioned therein.
- (4) Paragraphs (2) and (3) shall apply to the persons holding the offices to which those respective paragraphs apply on or after 1st January, 1965, and the power conferred on the Minister by the proviso to paragraph (2) may be exercised by him in relation to a person who held any such office on 1st January, 1965, notwithstanding that he retired therefrom before the enactment of the Pensions (Amendment) Act 1976.
- (5) Subject to section 6, paragraph (2) shall, as the same applies in relation to a Justice of Appeal, apply *mutatis mutandis* in relation to an officer holding a pensionable office who is appointed to the office of Ombudsman on or after 26th May, 1966.”;
- (e) by the substitution of the following proviso for the proviso to paragraph (1) of regulation 10 —

“Provided that —

- (a) where the service in a pensionable office has been immediately preceded by an unbroken period of service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, such period, or any part of such period, may be taken into account in computing pension or gratuity;
 - (b) where service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, in circumstances to which paragraph (b) of the proviso to regulation 6(1) applies has preceded service in a pensionable office, the service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, or any part thereof, may be taken into account in computing pension or gratuity.”;
- (f) by the substitution of the following subparagraph for subparagraph (a) of paragraph (3) of regulation 10 —
- “(a) where a person who shall be or has been appointed to a pensionable office or to an office or employment other than a pensionable office has, immediately preceding such appointment (whether before or after the coming into operation of this subparagraph) had service as a teacher in a school within the meaning of the Teachers’ Pensions Act and retires from a pensionable office, then if the name of that person —
- (i) is on the Teachers’ Pension Register in accordance with the Teachers’ Pensions Act; or
 - (ii) is not on the Teachers’ Pension Register but he had done qualify-

ing service which would have been reckonable in determining his eligibility to have his name entered in the said Register, if he had continued to serve as a teacher.

the period of service of such person as a teacher shall be taken into account in computing pension or gratuity, and in the case of a person to whom subparagraph (a) (ii) applies and who is in retirement at the time of the enactment of the Pensions (Amendment) Act 1976 if he retired on or after 19th June, 1971;”;

- (g) by the deletion of the words “paragraph (b) of the proviso to” from regulation 13(2) and the addition of the words “(except for the proviso)” after the words “section 11” appearing therein;
- (h) by the addition of the words “or such shorter period of service as the Minister may approve in the special circumstances of any particular case” immediately after the word “Guyana” in regulation 17(1);
- (i) by the addition of the following paragraph as paragraph (3) of regulation 17 —
 - “(3) An officer who is granted an annual allowance under this regulation may, in like manner as an officer to whom a pension is granted under the Act, exercise the option to be paid an annual allowance at the rate of three-fourths of such allowance together with a sum equal to twelve and one-half times the amount by which such annual allowance is reduced.”;
- (j) by the deletion of regulation 18 and the substitution of the following regulation therefor —

“Gratuities to be paid to female officers on marriage.

18. Where after the date of the enactment of the Pensions (Amendment) Act 1976 an unmarried female officer who was in the pub-

lic service on that date resigns from the service of Guyana on or with a view to marriage after having held a pensionable office or offices in Guyana for not less than five years and having been confirmed in a pensionable office, she may, if she is not otherwise eligible for the grant of any pension, gratuity or other allowance from the public funds of Guyana, be granted, on production within six months of her resignation, or such longer period as the Minister may in any particular case allow, of satisfactory evidence of the marriage, a gratuity not exceeding one-twelfth of a month's pensionable emoluments for each completed month of pensionable service in Guyana or one year's pensionable emoluments, whichever shall be the less.”;

- (k) by the substitution of the word “eighteen” for the word “twenty” in regulation 20(3);
- (l) by the insertion in regulation 21 immediately after the word “gratuity” of the words “or on or after attaining the age of fifty-five years, whichever is earlier”;
- (m) by the substitution of the words “on or with a view to marriage,” for the words “for the reason that she has married, or is about to marry,” in regulation 27(1); and
- (n) by the deletion of paragraph (2) of regulation 27 and by renumbering paragraph (1) of the regulation as regulation 27.

EXPLANATORY MEMORANDUM

Clause 2 of this Bill seeks to provide that the duty allowance paid to a Permanent Secretary and the surcharge allowance paid to a pilot employed in the Transport and Harbours Department shall form part of their respective pensionable emoluments.

Clause 3 seeks to provide that the certificate of the President to the effect that the Head of a Department not under the control of a

Minister has discharged his duties with diligence and fidelity will be required as a condition of the grant of a pension or gratuity or other allowance to the officer.

Clause 4 seeks to abolish the grant of a gratuity to a female officer who resigns from the public service on or with a view to marriage; a female unmarried officer who is in the public service at the time of the enactment of the legislation will, however, be eligible for the grant of a gratuity if she elects to resign from the public service on marriage. A married female officer whose services have been retained in the public service in consequence of the policy adopted by the Government to retain the services of married women in the public service will not, however, be eligible for the grant of a marriage gratuity. Clause 4 also seeks to make a consequential amendment to section 8 of the Act as a result of the amendment of regulation 7 by clause 9(d) to provide special superannuation benefits for Judges of the Supreme Court and other officers. Clause 4 further seeks to amend section 8 of the Principal Act in consequence of the amendment of regulation 21 of the Pensions Regulations 1957.

Clause 5 seeks to repeal and re-enact section 11 of the Pensions Act so as to delete the provision which required a female officer to retire from the public service on marriage.

Clause 6 seeks to amend section 16 of the Pensions Act to enable an officer who has been re-appointed to the public service to repay at a date later than the date of his re-appointment any gratuity which may have been received by him.

Clause 7 seeks to amend section 22 of the Pensions Act to ensure that the dependents of a female officer who dies from injuries sustained in the course of her duties (without default on her part) will receive the benefits conferred by section 22 of the Pensions Act.

Clause 8 seeks to amend section 23 of the Pensions Act to enable the Minister by order to designate other service as public service and reckonable in the computation of the pension of an officer.

Clause 9(a) seeks to amend regulation 6 of the Pensions Regulations 1957 (contained in the schedule to the Pensions Act) to enable service in the public service prior to resignation therefrom to be reckoned for superannuation purposes if the officer is subsequently re-employed in the public service and the Minister approves of the service being so reckoned.

Clause 9(b) seeks to enable a public officer to seek election as a member of the National Assembly without loss of qualifying service reckonable for superannuation purposes. If the officer is not elected to membership of the National Assembly and is re-employed within two

months after the declaration of the results of the election the period during which he ceased to be a public officer will be regarded as if the officer had been granted leave without salary.

Clause 9(c) seeks to ensure that maternity leave granted with pay, whether at the full rate or otherwise, is included in the computation of the pensionable service of a female officer.

Clause 9(d) seeks to provide special superannuation benefits for Judges of the Supreme Court of Judicature and the holders of other offices of equivalent status.

Clause 9(e) seeks to make an amendment to regulation 10 of the Pensions Regulations 1957 as a consequence of the amendment of regulation 6 to enable an officer to have broken periods of service in the public service.

Clause 9(f) seeks to enable all the service of a teacher on or after attaining the age of eighteen years to be counted for superannuation purposes, notwithstanding that his name may not have been entered in the Teachers' Pension Register in accordance with the provisions of the Teachers' Pensions Act, if on immediately ceasing to be a teacher he enters into the employment of the Government as an officer in the public service and had done qualifying service which would have been reckonable in determining his eligibility to have his name entered in the Teachers' Pension Register. This is considered necessary on account of the fact that the whole period of service of a public officer paid for out of an open-vote is now reckoned for superannuation purposes.

Clause 9(h) seeks to amend regulation 17 of the Pensions Regulations 1957 to authorise the Minister assigned responsibility for the public service to grant an annual allowance in the special circumstances of any particular case to a person who has served for less than twenty continuous years in a non-pensionable office.

Clause 9(i) seeks to enable persons who qualify for the grant of annual allowances under the Pensions Act to be able to exercise the option (in like manner as persons to whom pensions are granted) to receive a reduced annual allowance with a gratuity.

Clause 9(k) seeks to make a consequential amendment to the Pensions Act as a result of service from the age of eighteen years being reckoned as pensionable service.

Clause 9(l) seeks to enable a public officer who has other public service within the meaning of the Act to be able to be granted pension in respect of his service with the Government of Guyana on or after attain-

ing the age of fifty-five years or the age at which he is permitted to retire under the law relating to the service in which he was last employed, whichever is earlier.

Clause 9(n) seeks to make a consequential amendment to regulation 27 since the category of officer to which regulation 27(2) referred no longer exists.

L. F. S. Burnham,
Prime Minister.