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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. 13 of 1990

PENSIONS (AMENDMENT) BILL 1990

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Amendment of section 12 of the Principal Act.
3. Amendment of section 15 of the Principal Act.
4. Amendment of regulation 16 of Pensions Regulations.

A BILL

Intituled

AN ACT to amend the Pensions Act.

A. D. 1990 Enacted by the Parliament of Guyana:—

Short title and commencement. Cap. 27:02 1. This Act, which amends the Pensions Act, may be cited as the Pensions (Amendment) Act 1990 and shall be deemed to have come into operation on 1st January, 1988.

Amendment of section 12 of the Principal Act. 2. Section 12 of the Principal Act is hereby amended by the insertion, after subsection (4) of the following subsections as subsections (5), (6), (7) and (8) —

(5) Subject to the provisions of subsections (6), (7) and (8), where pension computed under regulation 16 of the Regulations exceeds the maximum pension specified in subsection (1), the officer referred to in that regulation (hereafter in this section referred to as the "said officer") may, notwithstanding anything contained in that subsection, be granted the pension so computed:

Provided that the pension granted to the said officer for one year shall not exceed the highest annual rate of pensionable emoluments payable to him at any time in the course of his service in a pensionable office in the service of Guyana:

Provided further that subsections (2) and (3) shall apply in respect of the said officer as if the words "two thirds of", wherever they occur, were deleted.

(6) Subsection (5) shall not apply in the case of the said officer unless —

(a) the subsequent retirement referred to in regulation 16 of the Regulations has taken effect on or after the commencement of the Pensions (Amendment) Act 1990;

(b) the appropriate Minister certifies —

(i) that the re-employment was to maintain or improve the efficiency of the Ministry or Department of the Government, or the other public service, in which the said

officer was re-employed, or to provide service at an acceptable level; and

- (ii) that prompt efforts were made to find a person, who has not attained the age of fifty-five years and is suitably qualified therefor, for appointment to the office in which the said officer was re-employed and the efforts were unsuccessful;
- (c) notwithstanding that the pension granted to the said officer in respect of his service prior to the re-employment has not been suspended under section 15(2) during the period of his re-employment, any sums received by him by way of such pension is refunded by him to the Government within such time as may be specified by the Minister;

Provided that where the re-employment was before the date of the enactment of the Pensions (Amendment) Act 1990, the Minister may direct that this paragraph shall not apply to the said officer;

- (d) any gratuity paid to the said officer in respect of his service in the office he held in the service of Guyana, prior to the date of his re-employment referred to in regulation 16 of the Regulations, shall be set off against the superannuation benefits granted to him on his subsequent retirement from the service of Guyana referred to in that regulation or against any gratuity payable on his death to his legal personal representative.

(7) For the purpose of computing any gratuity and reduced pension payable, under section 14, to an officer referred to in regulation 16 of the Regulations, the reference in the opening part of subsection (1) of that section to pension granted under this Act shall be deemed to be a reference to a pension computed in accordance with subsection (5) of this section, read with that regulation.

(8) In subsection (6) "appropriate Minister" means, —

- (a) where the re-employment referred to in that subsection was prior to the date of the enactment of the Pensions (Amendment) Act 1990,

the Minister assigned responsibility for the Ministry or Department of the Government, or the other public service, in which the said officer was re-employed; and

- (b) where the re-employment referred to in that subsection was on or after the date of the enactment of the Pensions (Amendment) Act 1990, the Minister assigned responsibility for the Public Service Ministry.”.

Amendment
of section 15
of the Prin-
cipal Act.

3. Section 15 of the Principal Act is hereby amended in the following respects —

- (a) in subsection (2) by the substitution, for the words “appointed to another office”, of the words “re-employed in the same or another office”;
- (b) by the insertion, after subsection (2), of the following subsection as subsection (3) —

“(3) For the avoidance of doubt it is hereby declared that subsection (2) shall apply whether or not the re-employment was consequent upon being called upon, under subsection (1), to accept such re-employment in the circumstances mentioned therein.”.

Amendment
of regula-
tion 16 of
Pensions Re-
gulations
1957.

4. Regulation 16 of the Pensions Regulations 1957, contained in the Schedule to the Principal Act, is hereby amended by re-numbering it as paragraph (1) thereof and —

- (a) in paragraph (1), as so re-numbered —
- (i) in the opening portion, by the substitution, for the words “appointed to another”, of the words “re-employed in the same or another”;
- (ii) in the proviso, by the substitution, for the full stop at the end, of a colon and by the insertion, after the proviso, of the following further proviso —

“Provided further that, where an officer exercises the option referred to in section 14 (1) in respect of the pension for the next period of service referred to in the preceding proviso, section 14 shall apply in respect of the pension for the afore-said next period of service.”;

(b) by the insertion, after paragraph (1), of the following paragraph as paragraph (2) —

“(2) Where, between his previous retirement and subsequent re-employment, there is an interruption in the service of any officer, re-employed as referred to in paragraph (1) on or after the date of the enactment of the Pensions (Amendment) Act 1990, paragraph (1) shall apply to the computation of the pension of that officer on his final retirement only if —

- (a) the interruption in service is caused by his previous retirement (whether such retirement was before or after the commencement of the Pensions (Amendment) Act 1990) following by the re-employment;
- (b) it does not exceed twelve months; and
- (c) the Minister directs that the interruption in service shall be disregarded.”.

EXPLANATORY MEMORANDUM

Regulation 16 of the Pensions Regulations 1957 deals with the computation of pension when a pensioner who has been re-employed in another office, specified in that regulation, retires from it. Clause 4 of this Bill seeks to amend that regulation, with effect from 1st January, 1988, so as to extend its beneficial provisions also to cases where a pensioner is re-employed in the same office. Clause 4 of the Bill also seeks to re-number the existing regulation 16 as paragraph (1) of that regulation and to insert a new paragraph (2) in that regulation. That new paragraph seeks to provide that the re-numbered paragraph (1) of regulation 16 will apply to a pensioner re-employed after the commencement of the present amending legislation. If there is an interruption in service between the first retirement and the re-employment that follows it, only if the period of the interruption in service does not exceed twelve months and the Minister directs that the interruption in service be disregarded.

2. Clause 2 of the Bill seeks to amend section 12 of the Pensions Act, Cap. 27:02. The amendment seeks to provide that the re-computed pension payable to a re-employed officer under regulation 16 of the Pensions Regulations 1957 may, subject to the fulfilment of certain conditions, exceed the maximum specified in subsection (1) of that section, but not the highest annual rate of pensionable emoluments payable to that officer at a time in the course of his service in a pensionable office in the

of Guyana. The condition referred to above are contained in the new subsection (6) proposed to be inserted in section 12 of the Pensions Act, Cap. 27:02, by clause 2 of the Bill.

3. Clause 3 of the Bill seeks to amend subsection (2) of section 15 of the above Act so as to apply that subsection also to a case where a pensioner is re-employed in the same office. That clause also seeks to insert a new subsection (3) in that section to clarify that the subsection applies also to cases where the re-employment is in circumstances other than the one mentioned in subsection (1) of that section.

Faith A. Harding,
Minister of the Public Service.