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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. 8 OF 1971.

TEACHERS PENSIONS (AMENDMENT) BILL, 1971.

Arrangement of Sections.

Section

1. Short title.
2. Amendment of section 2 of Chapter 95.
3. Amendment of section 3B of Chapter 95.
4. Repeal and re-enactment of section 4 of Chapter 95.
5. Amendment of section 6 of Chapter 95.
6. Amendment of section 7 of Chapter 95.
7. Insertion of section 7A, 7B and 7C in Chapter 95.
8. Amendment of section 11 of Chapter 95.
9. Amendment of the schedule to Chapter 95.
10. Application of section 3B of the Principal Ordinance to certain teachers.
11. Application of this Act.

A BILL

Intituled

AN ACT TO AMEND THE TEACHERS PENSIONS ORDINANCE
FOR THE PURPOSE OF IMPROVING THE SUPER-
ANNUATION BENEFITS OF TEACHERS.

Short title. Enacted by the Parliament of Guyana:—

Cap. 95.

1. This Act may be cited as the Teachers Pensions (Amendment) Act, 1971, and amends the Teachers Pensions Ordinance, hereinafter referred to as the Principal Ordinance.

Amendment
of section 2
of Chapter
95.

2. Section 2 of the Principal Ordinance is hereby amended by the addition thereto of the following definition—

“pensionable emoluments” in respect of service as a teacher includes—

(a) salary; and

(b) responsibility allowance,

but does not include duty, entertainment or other allowance or any other emoluments whatsoever.’

Amendment
of section 3B
of Chapter
95.

3. Section 3B of the Principal Ordinance (as inserted by section 28 of that Ordinance) is hereby amended in the following respects—

(a) by the repeal of subsection (1) and the substitution therefor of the following subsection—

“(1) Subject to sections 4 and 15, every teacher to whom this section applies may, on his retirement as a teacher or on his retirement from the public service be granted a pension, in respect of each month of his service for pension as a teacher, at the rate of one six-hundredth of his pensionable emoluments computed in accordance with regulation 9 of the Pensions Regulations, 1957, as applied to a teacher by section 7C.”;

(b) by the substitution of the words “pensionable emoluments” for the word “salary” wherever it appears in the section; and

(c) by the substitution of the word “two-thirds” for the word “one-half” in subsection (3).

Repeal and
re-enactment
of section 4
of Chapter
95.

4. Section 4 of the Principal Ordinance is hereby repealed and the following section substituted therefor—

"Pensionable
service and
age.

4. (1) No certificated teacher shall be entitled to retire on a pension under the provisions of this Ordinance, unless the teacher has attained the age of fifty-five years and has completed at least ten continuous years of service:

Provided that—

- (a) if it is proved to the satisfaction of the President that any certificated teacher who has completed not less than ten years continuous service as a teacher is from infirmity of mind or body incapable of discharging the duties of his office, and that the infirmity is likely to be permanent, the President may award a pension to that teacher calculated as though the teacher had completed not less than twenty years' continuous service prior to retirement;
 - (b) the President may, in special cases, require a certificated teacher to retire from service as a teacher on or after attaining the age of fifty years;
 - (c) the President may, in special cases, approve of a certificated teacher retiring from service as a teacher on or after attaining the age of fifty years.
- (2) The provisions of subsection (1) shall *mutatis mutandis* apply to an uncertificated teacher to whom section 3B applies.
- (3) Nothing in the foregoing provisions of this section shall preclude service as a teacher which was not continuous prior to the enactment of this section from being reckoned in the computation of the pension or gratuity of a teacher."

Amendment
of section 6
of Chapter
95.

5. Section 6 of the Principal Ordinance is hereby amended in the following respects—

- (a) by the substitution of the word "fifty-five" for the word "sixty"; and
- (b) by the substitution of a full-stop for the semicolon where it appears and the deletion of the remainder of the section beginning with the word "and".

Amendment
of section 7
of Chapter
95.

6. Section 7 of the Principal Ordinance is hereby amended in the following respects—

- (a) by the substitution of the word "eighteen" for the word "twenty" in subsection (1);
- (b) by the substitution of the word "fifty-five" for the word "sixty-five" in subsection (1);
- (c) by the deletion of the words "shall be granted for any period in excess of thirty-five years" appearing in subsection (1) and the substitution thereof of the words "granted to a teacher under this Ordinance shall exceed two-thirds of the highest pensionable emoluments received by him at any time in the course of his service as a teacher";
- (d) by the addition thereto of the following subsections—

"(4) Anything in subsection (2) to the contrary notwithstanding, where a teacher has, whether before or after the enactment of this subsection, with the approval of the Government, attended any institution for the training of teachers, whether within or outside Guyana, the period of time spent for the purpose of such training shall be taken into account as qualifying or pensionable service.

- (5) Except as otherwise provided in this Ordinance, for the purpose of calculating the pension or gratuity of a teacher in respect of service after the enactment of this subsection, only continuous service shall be taken into account as qualifying or pensionable service:

Provided that any interruption in service caused by temporary suspension of employment not arising

from misconduct or voluntary resignation shall be disregarded for the purpose of this subsection:

And provided further that nothing in this subsection shall preclude service as a teacher which was not continuous prior to the enactment of this subsection from being reckoned in the computation of the pension or gratuity of a teacher.

(6) For the purpose of computing the amount of a teacher's pension or gratuity the following periods shall be taken into account as pensionable service—

- (a) any periods which, by virtue of subsection (2) or (4), may be taken into account;
- (b) any period during which he has received salary whether at the full rate or otherwise paid out of moneys provided by Parliament while proceeding to Guyana on first appointment;
- (c) any period during which he has been absent from duty on leave, with salary;

Provided that, save as hereinafter provided in this section, where a teacher is absent from duty on leave with salary otherwise than at the full rate, the period to be counted shall be the period which bears the same proportion to the amount of salary received by him;

- (d) any period during which he has been absent from duty on leave, with or without salary, granted on grounds of public policy and during which he has not qualified for pension or gratuity in respect of other teaching service or other public service;
- (e) any period during which he has been absent from duty on leave with salary otherwise than at the full rate by reason of

interdiction from duty which has been succeeded by reinstatement with or without a penalty by way of deduction of salary being imposed.

and any periods during which he has been absent from duty on leave, other than those hereinbefore specified, shall be deducted from the teacher's total service in computing his period of pensionable service."

Insertion of
section 7A,
7B and 7C in
Chapter 95.

7. The following sections are hereby inserted in the Principal Ordinance as sections 7A, 7B and 7C, respectively—

"Non-pensionable service to be reckoned.

7A (1) Only pensionable service as a teacher shall be taken into account in computing the amount of a teacher's pension or gratuity:

Provided that where the pensionable service of a teacher has been immediately preceded by an unbroken period of service in the public service which is not pensionable, or of service paid for out of an open vote in the public service, or of both such services, such period or any part thereof, may be taken into account in computing pension or gratuity.

(2) Any break in service which may be disregarded under the provisions of subsection (5) of section 7 may likewise be disregarded in determining for the purposes of the proviso to subsection (1) whether one period of service immediately follows another period of service.

(3) For the purposes of this section, service paid for out of an open vote shall be reckoned in the manner provided by the provisions of the Pensions (Consolidation) Ordinance, 1957.

No. 38 of
1957.

"Teachers with service as public officers.

7B. Where the service of a person as a teacher has been immediately preceded by service in a pensionable office within the meaning of the Pensions (Consolidation) Ordinance, 1957, and the name of that person

No. 38 of
1957.

is entered in the Teachers Pensions Register in accordance with this Ordinance, the period of service of that person in the pensionable office shall be taken into account in computing pension or gratuity under this Ordinance:

Provided that such service in a pensionable office shall not be reckoned in the computation of pension payable to the officer under the Pensions (Consolidation) Ordinance, 1957.

No. 38 of
1957.

Application
of specified
provisions
of the
Pensions
(Ordinance)
1957, to
teachers.

7C

Sections 6, 9A, 14, 15, 20 and 21 of the Pensions (Consolidation) Ordinance, 1957, and regulations 4, 9 and 16 of the Pensions Regulations 1957 (contained in the schedule to the Pensions (Consolidation) Ordinance, 1957) shall *mutatis mutandis* apply to a teacher as they apply to an officer in the public service, subject to the following modifications—

- (a) for the reference in section 9A to section 9, there shall be substituted a reference to paragraph (a) of the proviso to section 4(1);
- (b) for the reference in section 20(1)(b) to paragraph (d) of section 8 there shall be substituted a reference to paragraph (a) of the proviso to section 4(1);
- (c) for the reference in section 20(1)(b) to section 13 there shall be substituted a reference to section 3B;
- (d) for the reference in regulation 4 to regulation 3 there shall be substituted a reference to section 3B.”

8. Section 11 of the Principal Ordinance is hereby amended in the following respects—

Amendment
of section 11
of Chapter
95.

- (a) by the insertion of the words “or gratuity” immediately after the word “pension”; and

- (b) by the insertion of the words “other than a debt due to the Government at the time of the retirement of the teacher” immediately after the word “whatsoever”.

Amendment
of the
schedule to
Chapter 95.

9. The schedule to the Principal Ordinance is hereby amended by the deletion of the words “, for a period of more than five years, “ from regulation 3(d).

Application of
section 3B of
the Principal
Ordinance to
certain
teachers.
No. 24 of
1958.

10. Notwithstanding the repeal of paragraph (b) of section 32 of the Principal Ordinance by section 5 of the Teachers Pensions (Amendment) Ordinance, 1958, section 3B of the Principal Ordinance shall apply and shall be deemed always to have applied to every teacher whose name was in the Teachers Pension Register on 1st January, 1944, and who did not intimate to the former Director of Education on or before 30th June, 1952, that he desired that the provisions of section 3, 3A, 5 or 5A of the Principal Ordinance, as the case may be, shall continue to apply to him.

Application
of this Act.

11. (1) The provisions of the Principal Ordinance, as amended by sections 3 to 7 (both sections inclusive) and section 9, shall apply to every teacher whose name is entered in the Teachers Pension Register subsequent to the enactment of this Act.

(2) The provisions of the Principal Ordinance, as amended by sections 3, 4, 5, 6 (other than paragraph (a), and paragraph (d) in so far as it relates to the enactment of section 7(4) of the Principal Ordinance), 7 and 9, shall apply—

- (a) to every teacher whose name was in the Teachers Pension Register on 1st January, 1961, and who had not attained the age of fifty-five years at 31st December, 1960, unless he intimates in writing to the Chief Education Officer not later than the expiration of one year commencing with the enactment of this Act that he desires that the provisions of the Principal Ordinance shall continue to apply to him as they applied prior to their amendment by the provisions of this Act hereinbefore mentioned in this subsection;
- (b) to every teacher whose name was entered in the Teachers Pension Register on or after 1st January, 1961, but before the enactment of this Act, and who had not attained the age of fifty-five years at 31st December, 1960, unless he intimates in writing to the Chief Education Officer not later than the expiration of the period specified in paragraph (a) that he desires that the provisions of the Principal Ordinance shall continue to apply to him as they applied prior to their amendment by the provisions of this Act hereinbefore mentioned in this subsection.

(3) The provisions of the Principal Ordinance, as amended by section 3, shall apply—

- (a) to every teacher whose name is in the Teachers Pension Register on 1st January, 1961, and who had not attained the age of fifty-five years at 31st December, 1960, and who retired as a teacher or from the public service after 1st January, 1961, but before the enactment of this Act;
- (b) to every teacher whose name was in the Teachers Pension Register on 1st January, 1961, and who had not attained the age of fifty-five years at 31st December, 1960, and who retired as a teacher or from the public service after 1st January, 1961, and who died before the enactment of this Act.

(4) Section 7 of the Principal Ordinance, as amended by section 6(a), shall apply—

- (a) to every teacher whose name in the Teachers Pension Register at the time of the enactment of this Act;
- (b) to every teacher whose name is entered in the Teachers Pension Register subsequent to the enactment of this Act.

(5) Section 7 of the Principal Ordinance, as amended by section 6(d) in so far as it relates to the enactment of section 7(4) of the Principal Ordinance, shall apply to—

- (a) every teacher whose name was in the Teachers Pension Register on 1st January, 1961, or whose name was or is entered therein on or after that date;
- (b) every teacher mentioned in paragraph (a)—
 - (i) who retired as a teacher or from the public service after 1st January, 1961, but before the enactment of this Act;
 - (ii) who retired as a teacher or from the public service after 1st January, 1961, and who died before the enactment of this Act.

(6) Section 9A of the Pensions (Consolidation) Ordinance, 1957, (as applied to a teacher by section 7C of the Principal Ordinance) may be applied to a person who was serving as a teacher on 1st October, 1964, notwithstanding that he has ceased to be a teacher and his name removed from the register before the enactment of this Act.

(7) Where a teacher makes an intimation to the Chief Education Officer pursuant to the provisions of paragraph (a) or (b) of subsection (2), the Principal Ordinance shall have effect in relation to him as if it had not been amended by the provisions of this Act as hereinbefore mentioned in the said subsection (2).

(8) Nothing in this section shall be construed as affecting the operation of sections 2 and 8.

EXPLANATORY MEMORANDUM

This Bill seeks to implement the recommendations of the Guillebaud Commission Report (1961) accepted by the Government to increase the rate of pension payable to a teacher to whom section 3B of the Teachers Pensions Ordinance (Chapter 95) applies from 1/720 to 1/600 of the annual average amount of a teacher's salary during the three years immediately preceding the date on which he retires as a teacher or the date on which he entered the public service. The rate of pension will now be the same as for officers in the public service and clause 3 of the Bill seeks to make provision accordingly.

2. Because the rate of pension for teachers will be the same as for officers in the public service the Government, after consultation with the Guyana Teachers Association, have decided that some of the principles which govern the granting of pensions to public officers should also apply to teachers. Clause 4 of the Bill which seeks to repeal and re-enact section 4 of the Teachers Pensions Ordinance prescribes the age of fifty-five years as the retiring age for teachers. Provision is made, however, for a teacher to be allowed to retire on attaining the age of fifty years or to be required to retire on attaining that age. Where a teacher who has completed not less than ten years' continuous service is compelled to retire on medical grounds the pension payable to that teacher will be calculated on the teacher's years of service but with a notional minimum period of twenty years' continuous service. This corresponds to similar provision in section 8 of the Pensions (Consolidation) Ordinance, 1957, which applies to officers in the public service.

3. The Teachers Pensions Ordinance allows a teacher to have reckoned pensionable service which is not continuous. Where a teacher accepts the new rate of pension and with it the new age for retirement the teacher's service must be continuous after the enactment of the amending legislation. Periods of service which were not continuous prior to the enactment of the amending legislation will nevertheless be reckoned in the computation of a teacher's pension or gratuity.

4. Clause 6 which seeks to amend section 7 of the Teachers Pensions Ordinance contains provision in paragraph (a) whereby service as a teacher from the age of eighteen years will be reckonable for superannuation purposes. Provision is also made in paragraph (d) enabling any period spent with the approval of the Government at any institution for the training of teachers to be taken into account in the computation of the pension or gratuity of certain teachers.

5. Clause 7 seeks to make provision in the Teachers Pensions Ordinance by applying to teachers provisions of the Pensions

(Consolidation) Ordinance, 1957, which apply to officers in the public service, for example, the payment of a gratuity to the legal personal representative of a teacher who dies while serving as a teacher.

6. Clause 10 is intended to preserve the application of section 3B of the Ordinance to certain teachers whose rights may have been affected by the repeal of paragraph (b) of section 32 of the Teachers Pensions Ordinance by section 5 of the Teachers Pension (Amendment) Ordinance, 1958.

7. Clause 11 contains provisions governing the application of the new provisions introduced in the Teachers Pensions Ordinance to teachers whose names were in the Teachers Pensions Register on 1st January, 1961, or were subsequently entered therein.

SHIRLEY FIELD-RIDLEY,
Minister of Education.