

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana,
19th March, 1979.

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. 4 OF 1979

TEACHERS' PENSIONS (AMENDMENT) BILL 1979

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 7 of the Principal Act.
4. Amendment of section 7A of the Principal Act.
5. Repeal and re-enactment of section 7B of the Principal Act.
6. Amendment of section 8 of the Principal Act.
7. Amendment of section 9 of the Principal Act.
8. Insertion of sections 41A and 41B in the Principal Act.
9. Amendment of the Teachers' Pension Regulations.
10. Consequential amendment of the Pensions Act.

A BILL

Intituled

AN ACT to amend the Teachers' Pensions Act and to make a consequential amendment to the Pensions Act.

Enacted by the Parliament of Guyana:—

Short title
and
commence-
ment.

1. (1) This Act may be cited as the Teachers' Pensions (Amendment) Act 1979.

(2) (a) Paragraph (b) of section 2, in so far as it relates to a teacher employed in a government school providing secondary education and established and maintained out of moneys provided by Parliament (including the Legislature prior to 26th May, 1966), shall be deemed to have come into operation on 1st September, 1963;

(b) paragraph (b) of section 2, in so far as it relates to the re-enactment of the definition of the word "teacher", shall be deemed to have come into operation on 1st January, 1958 in relation to teachers employed in schools providing secondary education.

(3) Paragraph (d) of section 2 shall apply to every person employed in an aided or a government school on or after 19th June, 1971.

(4) Section 3, in so far as it relates to paragraph (a) thereof, section 4, and section 5 in so far as it relates to the amendments effected to section 7B of the Principal Act (by the repeal and re-enactment of that section) for reckoning service as a public officer which does not immediately precede service as a teacher shall apply to every person serving as a teacher on or after 1st October, 1974 and in respect of interruptions in the service of such a teacher occurring before or after 1st October, 1974.

(5) Section 3, in so far as it relates to the enactment of section 7(7) of the Principal Act, shall be deemed to have come into operation on 1st July, 1973.

(6) Section 4, in so far as the re-enactment of the proviso to section 7A of the Principal Act relates to reckoning the service of an acting or temporary teacher, shall apply to every person serving as a teacher on or after 1st October, 1974.

(7) Section 5, in so far as it relates to the amendment effected to section 7B (by the repeal and re-enactment of that section) for the service of a teacher to be deemed to have qualified the teacher to have the name of the teacher entered in the Teachers' Pension Register, shall be deemed to have come into operation on 19th June, 1971.

(8) Section 9 shall apply to —

- (a) every person serving as a teacher or or after 1st October, 1974;
- (b) every person serving as a public officer on or after 1st October, 1974 but who had service as a teacher at any time prior to that date.

(9) Section 10(1) shall apply to officers in the public service on or after 1st October, 1974.

2. Section 2 of the Principal Act is hereby amended in the following respects —

Amendment
of section 2
of the
Principal
Act.

- (a) by the deletion of the definition of the expression "aided school";
- (b) by the substitution of the following definitions for the definition of the expressions "government school" and "teacher", respectively —
 "government school" means any school or other place of education established or maintained out of moneys provided by Parliament;";
 "teacher" means a certificated or uncertificated teacher;";
- (c) by the deletion of the words "an aided or" from the definition of the word "school"; and
- (d) by the substitution of a full stop for the comma after the word "regulations" in the definition of the expression "uncertificated teacher" and the deletion of all the words following thereafter in the definition.

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

Amendment
of section 7
of the Prin-
cipal Act.

- (a) by the substitution of the following proviso for the first proviso to subsection (5) thereof —
 "Provided that any interruption in service as a teacher caused by —

- (a) temporary suspension of employment not arising from misconduct; or
- (b) voluntary resignation (whether before or after 1st October, 1974) in circumstances otherwise than as mentioned in section 7(7) followed by re-employment as a teacher at any time thereafter,

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

- (b) by renumbering subsection (6) as subsection (8) and inserting the following subsections as subsections (6) and (7), respectively —

“(6) Where a teacher is, with the approval of the Teaching Service Commission, transferred from his office as a teacher to a substantive appointment in an office service in which is other public service for the purposes of the application of regulation 21 of the Pensions Regulations 1957, his service in the last-mentioned office shall be treated in like manner as in the case of an officer to whom the Pensions Act applies.

- (7) Anything in subsection (2) to the contrary notwithstanding, if a teacher —

- (a) resigned his office as a teacher 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 to the National Assembly;

- (b) was a candidate at the election; and

- (c) failed to be elected,

he shall, if on application made by him he is re-employed as a teacher in a school 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 section to have been employed as a teacher in a school 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.”.

4. Section 7A of the Principal Act (as inserted by section 38 thereof) is hereby amended by the substitution of the following proviso for the proviso to subsection (1) —

Amendment
of section 7A
of the Prin-
cipal Act.

“Provided that where the pensionable service of a teacher has been preceded by an unbroken period of service as an acting or a temporary teacher which is not pensionable or by service in the public service which is not pensionable or service paid for out of an open vote in the public service, or any combination of such services, such service or any part thereof may be taken into account in computing pension or gratuity, but only with the approval of the Minister where the pensionable service of the teacher has not been immediately preceded by service as a teacher which is not pensionable or service in the public service as mentioned aforesaid.”.

5. Section 7B of the Principal Act (as inserted by section 38 thereof) is hereby repealed and the following section substituted therefor —

Repeal and
re-enact-
ment of sec-
tion 7B of
the Princi-
pal Act.

“Teachers’
with service
as public
officers.

7B Where the service of a person as a teacher has been preceded, whether immediately or not, by service in a pensionable office within the meaning of the Pensions Act and the name of that person is entered in the Teachers’ Pension Register in accordance with this Act, or he has given service as a teacher 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 (hereinafter in this section referred to as “qualifying service”), the period of service of that person in the pensionable office shall be taken into account in computing pension or gratuity under this Act; in the case of a teacher who has given qualifying service as hereinbefore mentioned, he shall be deemed for the purposes of this section to have become eligible to have his name entered in the Register:
Provided that —

- (a) such service in a pensionable office shall not be reckoned in the computation of a pension payable to the officer under the Pensions Act;
- (b) where such service in a pensionable office did not immediately precede service as a teacher the period of service in such a pensionable office may not be taken into account in computing pension or gratuity, except with the approval of the Minister."

Amendment
of section 8
of the Prin-
cipal Act.

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

- (a) by renumbering the section as section 8(1);
- (b) by substituting the words "Subject to subsection (3), no" for the word "No"; and
- (c) by the addition of the following subsections as subsections (2) and (3), respectively —

"(2) No teacher shall be granted a pension or gratuity under this Act without a certificate from the Chief Education Officer to the effect that he has discharged the functions of his office with such diligence and fidelity as to justify the grant to him of such pension or gratuity.

(3) Any decision under this section to withhold the pension or gratuity of a teacher shall require the concurrence of the Teaching Service Commission."

No. 1 of 1975

Amendment
of section 9
of the Prin-
cipal Act.

7 Section 9 of the Principal Act is hereby amended by the substitution of the words "with the concurrence of the Teaching Service Commission" for the words "subject to article 104 of the Constitution".

Insertion of
sections 41A
and 41B in
the Principal
Act.

8. The Principal Act is hereby amended by the insertion therein of the following sections as sections 41A and 41B immediately after section 41 —

"Application
of this Act
to certain
teachers.

41A (1) Subject to this section, this Act shall apply —

- (a) to every teacher employed on or after 13th September, 1976 in a school the control and management of which became the responsibility of the Ministry on that date;
 - (b) to every teacher who was employed in such a school at any time prior to 13th September, 1976 and was employed as a teacher on that date in any other government school.
- (2) No teacher in a school the control and management of which became the responsibility of the Ministry on 13th September, 1976 who was entitled to participate in any dividend or surplus arising out of the management of the school prior to that date shall be entitled to be granted a pension or gratuity under this Act in respect of any period prior to that date:

Provided that the Minister may, having regard to the amount of dividend or surplus received by any such teacher, grant the teacher a pension or gratuity under this Act in respect of the service of the teacher in the school prior to 13th September, 1976 or a lower rate of such pension or gratuity.

- (3) No person who was on 13th September, 1976 employed as a teacher in a school the control and management of which became the responsibility of the Ministry on that date and was —
- (a) a contributor as such a teacher to a superannuation fund or scheme which was cancelled or otherwise terminated by reason of the control and management of the school becoming the responsibility of the Ministry thereby becoming entitled to a payment based on his contributions to the superannuation fund or scheme together with those of his employer; or
 - (b) a contributor as such a teacher to a superannuation fund or scheme which continues to be operative,

shall be eligible to have his name entered in the Teachers' Pension Register with reference to a date prior to 13th September, 1976:

Provided that the Minister may, having regard to the amount of the payment received by any teacher to whom paragraph (a) applies, grant the teacher a pension or gratuity under this Act in respect of the service of the teacher in the school prior to 13th September, 1976 or a lower rate of such pension or gratuity.

- (4) The Chief Education Officer shall enter in the Teachers' Pension Register the names of those teachers to whom subsection (1) applies and who, by virtue of the provisions of this Act, are entitled to have their names entered in the Register.
- (5) Notwithstanding anything to the contrary in this Act or the Education Act (including the Education Code Regulations), the Chief Education Officer shall have power, having due regard to the qualifications and experience of a teacher, to determine whether —
- (a) a teacher employed on 13th September, 1976 in a school which became the responsibility of the Ministry on that date;
 - (b) any other teacher employed in a government school or other place of education, who does not satisfy the requirements of the provisions of Part VI of the Education Code Regulations (which relate to the certification of teachers) shall be classified as a certificated or uncertificated teacher for the purposes of the Teachers' Pension Regulations."

"Saving of application of the Pensions Act.
Cap. 27:02

41B Nothing in this Act shall be construed as affecting the application of the Pensions Act to those teachers to whom it applied immediately before the enactment of the Teachers' Pensions (Amendment) Act 1979.

Amendment of the Teachers' Pension Regulations.

9. The Teachers' Pension Regulations (contained in the schedule to the Principal Act) are hereby amended in the following respects —

- (a) by the deletion of paragraph (d) of regulation 3;
- (b) by the deletion of regulations 4 and 5;

- (c) by renumbering regulations 6, 7 and 8 as regulations 8, 9 and 10, respectively;
- (d) by the insertion of the following regulations as regulations 4, 5, 6 and 7, respectively —

“4. Where there has been an interruption in the service of a teacher, the reckonability of his subsequent service as a teacher for the purposes of the Teachers’ Pension Register shall be subject to his being examined by a Medical Board and certified to be physically fit for service as a teacher.

5. Except in those cases to which regulation 6 applies, where the Chief Education Officer refuses to enter the name of a teacher in the Teachers’ Pension Register, the teacher may appeal to the President from the decision of the Chief Education Officer, and the decision of the President shall be final.

6. Where the name of a person serving as a teacher or as a public officer on or after 1st October, 1974 was at any time prior to that date removed from the Teachers’ Pension Register by reason of his having ceased to be a teacher for more than five years, his name shall be re-entered in the said Register for the purpose of the award of a pension to him if approval is given by the Minister for the period of the interruption in his service to be disregarded for that purpose.

7. In those cases to which regulation 6 applies, service shall be deemed to be continuous for the purposes of sections 4 and 5A of the Teachers’ Pension Act.”; and

- (e) by deleting the reference to the figure “4” from the renumbered regulation 8.

10. (1) Section 13 of the Pensions Act is hereby repealed and the following section substituted therefor —

“Officers
with service
as teachers.

13. Where the service of a public office has been preceded by service as a teacher in a school within the meaning of the Teachers’ Pensions Act, such service as a teacher shall be taken into account in computing pension or gratuity under this Act:

Consequen-
tial amend-
ment of the
Pensions Act.
Cap. 27:02

Provided that —

- (a) where such service as a teacher has not immediately preceded service as a public officer, such service as a teacher shall not be taken into account in computing pension or gratuity under this Act, except with the approval of the Minister;
- (b) such service as a teacher is not reckoned in the computation of pension or gratuity payable to the officer under the Teachers' Pensions Act."

(2) The following subparagraph is hereby substituted for subparagraph (a) of paragraph (3) of regulation 10 of the Pensions Regulations 1957 contained in the schedule to the Pensions Act —

- “(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, preceding such appointment (whether before or after the coming into operation of this sub paragraph) 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 in the Teachers' Pension Register in accordance with the Teachers' Pensions Act; or
 - (ii) is not in the Teachers' Pension Register but he had given service as a teacher 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 (ii) of this subparagraph applies, as if the name of that person had been entered in the Register and where such a person was in retirement at the time of the enactment of the Pensions (Amendment) Act 1976 if he retired on or after 19th June, 1971:

Provided that where the service as a teacher of a person who retires from a pensionable office did not immediately precede the service of that person in the public service the period of service as a teacher may be taken into account, only with the approval of the Minister;”.

EXPLANATORY MEMORANDUM

Clause 2 of the Bill contains provision to make it clear that teachers in certain government secondary schools (established on or after 1st September, 1963) may be granted superannuation benefits under the Teachers' Pensions Act (Cap. 39:05). Provision is also made in clause 2 for a revision of the definition of the word "teacher" having regard to the fact that teachers in secondary schools will be eligible for the grant of superannuation benefits under the Teachers' Pensions Act. Provision is also made in paragraph (d) of clause 2 enabling service as a pupil teacher on or after the attainment of the age of eighteen years to be reckoned for superannuation purposes. This has become necessary as a result of the pensionable service of teachers being reckoned from eighteen years instead of from twenty years as a result of the enactment of the Teachers' Pensions (Amendment) Act 1971. The amendment will take effect from the time of the enactment of the Teachers' Pensions (Amendment) Act 1971.

Clause 3 contains provision enabling a teacher to seek election to the National Assembly without loss of qualifying service reckonable for superannuation purposes. If the teacher is not elected to membership of the National Assembly and is re-employed as a teacher within two months after the declaration of the results of the election, the period during which he ceased being a teacher will be regarded as if he had been granted leave without salary.

Clause 4 seeks to make provision to accommodate periods of interruption in service by teachers. **Clause 4** also seeks to amend section 7A of the Principal Act to allow for a continuous period of service as an acting or a temporary teacher to be reckoned for superannuation purposes where such service precedes the pensionable service of a teacher.

Clause 5 seeks to repeal and re-enact section 7B of the Teachers' Pensions Act to make a corresponding amendment to the section consequent on the amendment of regulation 10 of the Pensions Regulations 1957 (contained in the Schedule to the Pensions Act — Cap. 27:02) in 1976 which enables service as a teacher prior to service as a public officer to be reckoned for pension, notwithstanding that the length of service as a teacher did not allow for his name to be entered in the Teachers' Pension Register.

Clause 6 seeks to amend the Teachers' Pensions Act to include provision making it a condition of the grant of superannuation benefits to a teacher that the Chief Education Officer must certify that the teacher has discharged his duties with diligence and fidelity. There is corresponding provision in section 4 of the Pensions Act (Cap. 27:02) relating to public officers. Provision is also made in clauses 6 and 7 requiring the concurrence of the Teaching Service Commission where it is intended to withhold or reduce the superannuation benefits of a teacher. There is corresponding provision in article 104 of the Constitution for the protection of the Judges of the Supreme Court of Judicature, public officers and members of the Police Force.

Clause 8 seeks to make provision for the superannuation benefits of teachers in schools the control and management of which became the responsibility of the Ministry of Education and Social Development on 13th September, 1976. Those persons who were employed as teachers in those schools on that date will, with certain exceptions, be eligible to have their pensionable service reckoned from the time they were employed as teachers in the school. Those teachers who derived benefits by way of participation in any dividends or surplus arising out of the management of a school may be granted superannuation benefits at the discretion of the Minister, having regard to the amount of dividends or surplus received by any such teacher in respect of any period prior to 13th September, 1976. In cases where contributory pension schemes were in force prior to 13th September, 1976 and were cancelled or otherwise terminated as a result of the Ministry becoming responsible for the control and management of the school any teacher who was refunded his contributions to the scheme as well as the contributions of his employer would not be entitled to the grant of superannuation benefits for any period prior to 13th September, 1976, except with the approval of the Minister. Where pension schemes are still in operation no teacher who is covered by the scheme will be entitled to superannuation benefits in respect of any period prior to 13th September, 1976.

Clause 9 seeks to amend the Teachers' Pension Regulations (contained in the Schedule to the Teachers' Pensions Act) to remove the obligation to delete from the Teachers' Pension Register the name of a person who has ceased to be a teacher. This has become necessary as a result of the decision of the Government that continuous service is no longer a prerequisite for superannuation purposes either as a public officer or as a teacher, if the interruption in service is approved by the Minister. Provision is also included in the clause enabling the restoration to the Register of the names of serving teachers and public officers whose names were deleted therefrom by reason of the fact that they had previously had interruptions in their service as teachers for a period of more than five years. The restoration of the names to the Register will be subject to the approval by the Minister of the period of the interruption in service being disregarded for superannuation purposes.

Provision is also included to enable the names of those teachers to whom the Teachers' Pensions Act applies for the first time to be entered in the Teachers' Pension Register if they qualify to have their names entered in the Register by virtue of having had the qualifying service for entry.

Clause 10 of the Bill seeks to make a corresponding amendment to the Pensions Act, Chapter 27:02 (which applies to public officers) to allow for service as a teacher given prior to service as a public officer to be reckoned for superannuation purposes with the approval of the Minister in cases where the service as a teacher did not immediately precede service as a public officer. Clause 10(2) also seeks to introduce in regulation 10(3)(a) of the Pensions Regulations 1957 provision deeming the name of a teacher to have been entered in the Teachers' Pension Register where a person who retires from the public service has had previous service as a teacher but the length of service as a teacher did not allow for the name of the teacher to be entered in the Register.

V. R. Teekah,
Minister of Education, Social Development and Culture.

(Bill No. 4/1979)

(ED: 34/4/1/1)