

S.M.C.D. 16
OVERSEAS PUBLIC OFFICERS' PENSIONS (GHANA/UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AGREEMENT) ACT, 1976

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S.M.C.D. 16
OVERSEAS PUBLIC OFFICERS' PENSION (GHANA/UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AGREEMENT) ACT, 1976(1)

1. Agreement to have force of law

The terms of the Agreement set out in the Schedule shall have the force of law in the Republic.

2. Modification of existing pension laws

The pensions laws as defined in article 1 of the Agreement and in force immediately before the commencement of this Act shall have effect subject to the modifications that are necessary to give effect to this Act.

3. Commencement

Spent.2(2)

Schedule

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

The government of the Republic of Ghana and the Government of the United Kingdom of Great Britain and Northern Ireland have agreed as follows:

ARTICLE 1

INTERPRETATION

(1) 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 Ghana;
- (c) **“the Ghana element”** in relation to a pension (other than a widows’ and orphans’ pension) 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, the whole cost;
 - (ii) in the case of any other pension that proportion of the pension which the total pensionable emoluments 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 Ghana which have been taken into account in determining the amount of that pension;
- (d) **“officer”** means an officer as so defined in the Public Officers Agreement between Her Majesty’s Government in the United Kingdom and Her Majesty’s Government in Ghana signed at London on the 1st day of March, 1957 and at Accra on the 6th day of March, 1957 (hereinafter referred to as “the Public Officers Agreement”) or who would have been an officer as so defined if he had remained a pensionable officer in the public service of Ghana until immediately before 6th March, 1957, or (in the case of officers who served in a West African Inter-Territorial Research Organisation) if his office had been a pensionable office in the public service of Ghana immediately before that date, and who was not a citizen of Ghana on 1st April, 1971 or who, having retired from the public service or having died in public service after that date, is not or was not a citizen of Ghana at the time of his retirement or death, as the case may be;
- (e) **“other public service”** means public service not under the Government of Ghana;
- (f) **“pension”** means any pension or gratuity, 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 to or in respect of any officer, or to the widow or child of any officer or to his legal personal representative;
- (g) **“pensionable emoluments”**
 - (i) in respect of public service under the Government of Ghana, means emoluments which count for pension under the pension laws;
 - (ii) in respect of other public service, means emoluments which count for pension in accordance with the laws or regulations in force in such service;
- (h) **“pensions laws”** means,
 - (i) in relation to pensions other than widows’ and orphans’ pensions any laws, regulation or administrative direction providing for the payment of pensions to officers in respect of public service and in force in Ghana at any time prior to 1st April, 1971 and enacted prior to that date;
 - (ii) in relation to widows’ and orphans’ pensions the Widows’ and Orphans’ (Overseas

Officers) Pensions Fund Ordinance, 1955, Ordinance No. 24 of 1955 of the Laws of Ghana and any amendments thereto in force at anytime prior to 1st April 1971 and enacted prior thereto (hereinafter referred to as Ordinance No. 24); and

- (iii) in relation both to widows' and orphans' pensions and to other pensions, any other laws, regulation or administrative direction accepted by the Government of the United Kingdom and Government of Ghana for the purposes of this Agreement;
- (i) **“public service”** means:
 - (i) service in a civil capacity under the Government of Ghana or any other country or territory in the Commonwealth;
 - (ii) service under the East Africa 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 Overseas Superannuation Scheme;
 - (bb) under any Acts relating to the superannuation of teachers in the United Kingdom; or
 - (cc) under a local authority in the United Kingdom;
 - (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 Ghana 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 East 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;
- (j) **“relevant service”** means public service in a civil capacity under the Government of Ghana on or after 31st July, 1955;
- (k) **“the taxation element”** means the sum accepted by the two Governments as being equivalent of the proceeds of income tax or any similar tax receded by the Government of Ghana on any sums which are reimbursable in accordance with subparagraph (1) (d) of Article 3;
- (l) **“widows' and orphans' pensions”** means pensions payable under Ordinance No. 24.

(2) In relation to any period before 6th March, 1957 references to the Government of Ghana shall be construed as references to the Government of the Gold Coast.

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 Ghana 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

(1) The Government of the United Kingdom undertake:

- (a) that they shall award, control, administer and pay the pensions and widows' and orphans' 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 and widows' and orphans' pensions being payable out of public moneys of the United Kingdom they shall not apply to 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 favorable to him;

- (c) that if the Government of Ghana should be adjudged by the order of a competent court of law having jurisdiction in Ghana to be liable to pay to or in respect of an officer or the widow or child or personal representative of an officer any sum in respect of a pension or widows' and orphans' 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 Ghana 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 or widows' and orphans' pension to or in respect of that pension which would otherwise fall to be made by them under this Agreement;
- (d) that they shall reimburse the Government of Ghana, in accordance with such procedure as may be mutually arranged between the two Governments, the aggregate amount, less the taxation element, of the following payments due on or after 1st April, 1971, being amounts due under the pension laws, and made by the Government of Ghana to or in respect of officers:
 - (i) the full cost of payments representing that proportion of a pension or gratuity payable to or in respect of an officer which accrues from public service under the Government of Ghana before 31st July, 1955;
 - (ii) the full cost of payments representing a pension arising from death resulting from an injury on duty or a pension or additional pension arising from such an injury, being an injury sustained before 31st July, 1955.

(2) For the purposes of subparagraph (1) (d) of this Article, the proportion of a pension or gratuity

which accrues from public service under the Government of Ghana before 31st July, 1955 is that proportion which the total pension-able emoluments received by an officer from such service prior to 31st July, 1955 bears to his total pension-able emoluments received from all such service.

ARTICLE 4

(1) The Government of Ghana undertake:

- (a) that they shall remain responsible for any instalments of pensions granted to or in respect of an officer 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 to or in respect of an officer 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 before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Ghana element of such pension;
 - (ii) in respect of any pension (other than a widows' and orphans' pension) awarded on or after the appointed day to or in respect of an officer, that part of the sum which would represent the Ghana element of such pension 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;
 - (iii) in respect of widows' and orphans' pension, such stocks, funds, securities or moneys as represent the interest in the Widows' and Orphans' Pensions (Overseas Officers) Fund established under Ordinance No. 24 of contributory officers and their potential beneficiaries alive on the appointed day, and the beneficiaries alive on the appointed day of deceased contributory officers.

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

ARTICLE 5

Each of the Parties to this agreement shall whenever requested to do so by the other Party, supply to that Party such information in connection with the operation of the arrangements contained in this Agreement as may be specified in such request.

ARTICLE 6

MODIFICATION OF PREVIOUS AGREEMENTS

On and after the appointed day the provisions of Articles 3, 4, 5 and the words "and that it will preserve his pension rights when he is so transferred or promoted" in Article 6 of the Public Officers Agreement shall cease to apply to or in respect of officers to whom this Agreement applies.

ARTICLE 7

MODIFICATION OF THIS AGREEMENT

If the Government of the United Kingdom and the Government of Ghana 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 decisions.

ARTICLE 8
ENTRY INTO FORCE

Each of the Parties to 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 of the later of these two notifications.

ARTICLE 9
CITATION

This Agreement may be cited as the Public Officers' Pensions (Ghana) Agreement, 1976.

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

Done in duplicate at Accra this 23rd day of February, 1976.

.....

J. K. DADSON

*For the Government of the Republic of
Ghana*

.....

F. MILLS C.M.G.

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

Endnotes

1 (Popup - Footnote)

1. This Act was issued as the Overseas Public Officers' Pensions (Ghana/United Kingdom of Great Britain and Northern Ireland Agreement) Decree, 1976, ([S.M.C.D. 16](#)) made on the 25th day of February, 1976, notified in the *Gazette* on 27th February, 1976 and came into force on 1st March, 1976. The Preamble to the Decree is as follows:

“WHEREAS by an Agreement made the 23rd day of February, 1976 between the Government of the Republic of Ghana and the Government of the United Kingdom of Great Britain and Northern Ireland (referred to in this Decree as ‘the Agreement’), the Government of the United Kingdom of Great Britain and Northern Ireland has agreed to assume from the Government of the Republic of Ghana, responsibility for the control, administration and payment of pensions of certain public officers;

AND WHEREAS IT IS DECIDED TO GIVE EFFECT TO THE agreement and for that purpose to provide that the terms thereof shall have the force of law in;

NOW THEREFORE, BE it enacted by the Supreme Military Council as follows:”

2 (Popup - Footnote)

2. The section provided for the issue of a Legislative Instrument to Accra to bring the Decree into force by L.I. 1065 of 1976.