

S.M.C.D. 8
PENSIONS AND SOCIAL SECURITY (AMENDMENT)
ACT, 1975

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S.M.C.D. 8
PENSIONS AND SOCIAL SECURITY (AMENDMENT) ACT, 1975¹(1)

AN ACT to extend to certain public officers, the application of the Social Security Scheme and to provide for related matters.

1. Extension of Social Security Scheme to public officers

Subject to the provisions of this Act, unless expressly exempted by or under an enactment relating to social security or pensions, and in force after the commencement of this Act, the persons in the public service or Police Force on or after the first day of January, 1972 shall be deemed to be members of the Social Security Fund in respect of the service rendered by them on or after that date in the public service or Police Force.²(2)

2. Restriction of law relating to pensions

Subject to the provisions of this Act, the service of a person in the public service or Police Force on or after the first day of January, 1972, is not pensionable service for the purpose of a law relating to pensions and accordingly, that law shall, subject to this Act, be deemed to have ceased to apply to that person in respect of service on or after that date.

3. Removal of doubts

It is hereby declared that the persons first employed in the public service or Police Force on or after the first day of January, 1972 shall, unless otherwise exempted under an enactment relating to social security or pensions and in force after the commencement of this Act be deemed to be, from the date of that employment, members of the Social Security Fund and, accordingly, a law relating to pensions shall not apply to service rendered by them in the public service or Police Force.

4. Option for pension or social security

(1) Despite anything to the contrary in any other enactment, a person who on the first day of January, 1972 became a member of the Social Security Fund and who immediately before that date held a pensionable office in the public service or Police Force, shall be given twelve months within which to opt

- (a) to have the eligibility for, and the amount of the pension of that person to be determined, in accordance with the law relating to pensions and applicable immediately before that date, that is, as from time to time amended, or
- (b) to continue to be a member of the Social Security Fund.

(2) An option exercised under subsection (1) once exercised is not revocable.

(3) A person who exercises the option in the manner specified under sub-section (1) (a) shall be deemed never to have been a member of the Social Security Fund and accordingly, the law relating to pensions applicable to that person on the 31st day of December, 1971 shall, subject to any amendments other than by the Social Security (Application to Public Servants) Decree, 1973 (N.R.C.D. 190) be deemed to have continued to apply in respect of service rendered by that person in the public service or Police Force after that date.

(4) Where a person opts in the manner specified in subsection (1) (b) then the law relating to pensions applicable on the 31st day of December, 1971 as subsequently amended, shall apply to the service in the public service or Police Force of that person before the first day of January, 1972 as if a minimum period of qualifying service and confirmation in office of that person for the grant of the pension were not required and, without prejudice to this section, regulation 4 of the Schedule to the Pensions Act, 1950 and regulation 4 of the First Schedule to the Teachers' Pensions Act, 1955 (No. 23 of 1955) shall be deemed to be amended accordingly.

4A. Public officers who retired between 1972 and 1975

(1) Despite anything to the contrary, a person whose service from the 1st day of January, 1972 up to the date of retirement from the public service or the Police Force would have been pensionable but for the Social Security (Application to Public Servants) Decree, 1973 (N.R.C.D. 190) shall be deemed to have exercised an option in the manner specified in subsection (1) (a) of section 4.

(2) The gratuity and pension of that person shall be calculated on the basis of the final pensionable

emoluments drawn by that person on the date of retirement, and on the pension constant applicable at the time of retirement.

(3) The social security benefits drawn by that person shall be deducted from the re-computed award.3(3)

5. Failure to exercise option

(1) Where a person to whom section 4 of this Act applies fails for a reason to exercise the option conferred within the twelve-month period allowed under that section, then unless the President otherwise directs, that person shall be deemed to have exercised an option in the manner specified in subsection (1) (b) of that section.

(2) Where a person to whom section 4A applies has died without exercising an option under section 4 that person shall be deemed to have exercised an option in the manner specified in subsection (1) (a) of section 4.4(4)

6. Contribution towards pension

(1) Despite anything to the contrary, a person to whom subsection (3) of section 4 applies shall continue to contribute towards pension an amount equal to five percent of that person's salary and the amount shall be deducted monthly at source and the employer shall also continue the contribution of twelve and a half per cent as before the commencement of this Act and the Social Security and National Insurance Trust shall hold the employee's and employer's contributions under this section on the terms directed by the Government.

(2) The contributions made to the Social Security Fund by that officer before the option takes effect shall be deemed to be contributions towards the pension of that officer.

7. Salary calculation of pension or gratuity

(1) Subject to this section, the final annual emoluments within the meaning of the law relating to pensions applicable and enjoyed by a person at the date of retirement shall be the emoluments on the basis of which the pension shall be calculated.

(2) Where a person exercises or is deemed to have exercised an option in the manner specified in subsection (1) (b) of section 4, the pension in respect of a period falling before the 1st day of January, 1972 shall be calculated on the basis of the approved annual pensionable emoluments attached at the time of the retirement to the post held on the 31st day of December, 1971 within the meaning of the law relating to pensions applicable to his post.

(3) In the case of a person who retires from the public service or the Police Force on or after the first day of January, 1976, where that person has been allowed, whether before or after that date, to transfer from the public service or the Police Force in respect of which the pension falls to be calculated to other employment, service in relation to which is not permitted to be taken into account for the calculation of the pension under the law relating to pensions under which the pension is to be calculated, the pensionable emoluments to be used in calculating the pension of that person shall be the approved annual pensionable emoluments within the meaning of the applicable law, at the time of retirement, to the post held by that person immediately before that transfer.

8. Amendment of Pensions Act and Teachers' Pensions Act

Spent.5(5)

9. Marriage gratuity

Despite the provisions of regulation 76 of the Civil Service (Interim) Regulations, 1960 (L.I. 47) gratuity may be granted to a female civil servant who retires from the public service in accordance with subsection (2) of section 5 of the Pensions Act, 1950(6) and also with regulation 6 or 13 of the Schedule to that Act.

10. Amended of section 15 of Pensions Act

Spent.7(7)

11. Pension of dependants of a teacher

Spent.8(8)

12. Amendments to Pensions Regulations

Spent.9(9)

13. Amendments to Pensions Regulations

Spent.10(10)

14. Amendments to Pensions Regulations

Spent.11(11)

15. Amendments to Pensions Act

Spent.12(12)

16. Interpretation

(1) In this Act, unless the context otherwise requires,

“laws relating to pensions” includes the Pensions Act, 1950(13) (Cap. 30), the Teachers’ Pensions Act 1955, sections 126 and 127 of the Local Government Act, 1961 (Act 54), paragraph 8 of the Public Service Commission Decree, 1969 (N.L.C.D. 393), any pensions scheme to which that paragraph applies and a similar enactment relating to pensions, gratuities or allowances in respect of service in the public service or Police Force;

“pension” includes gratuity;

“pensionable officer” has the meaning assigned to that expression in the Pensions Act, 1950 and the Teachers’ Pensions Act, 1955;

“public service” includes service in a civil capacity of the Government the emoluments attaching to which are paid directly from the Consolidated Fund, or directly out of moneys provided by Parliament and service with a statutory corporation established entirely out of public funds or out of moneys provided by Parliament;

“Social Security Fund” means the Social Security Fund within the meaning of the Social Security Act, 1972(14) or in relation to a period falling before the 1st day of July, 1972, within the meaning

of the Social Security Act, 1965 (Act 279).

(2) A reference in this Act to the Police Force shall, in relation to a period falling before the commencement of the Police Service (Amendment) Decree, 1974 (N.R.C.D. 303) be deemed to include a reference to the Police Service.

(3) A reference to the Police Force in this Act shall not be taken to prejudice the right of a person to pension, gratuity or any other allowance or other benefit whatsoever under any laws relating to pensions.

17. Modification of existing law

(1) An enactment in existence immediately before the coming into force of this Act shall have effect subject to the necessary modification to give effect to this Act.

(2) The President may, by legislative instrument make the modifications in any of those enactments as appear expedient to the President for the purpose of giving full effect to this Act.

(3) The President may also, by legislative instrument or by directions in writing, make the provision that may be expedient for giving full effect to this Act or for removing any doubts as to the effect of this Act.

18. Repeals

(1) The following provisions are hereby repealed or revoked:

- (a) regulations 9 (2) (c), 9 (3) (b), 17, 19 and 24 (4) of the Schedule to the Pensions Ordinance (Cap. 30);
- (b) regulation 14 of the First Schedule to the Teachers' Pensions Ordinance, 1955;
- (c) section 4 (c) of the Pensions (Amendment) Ordinance, 1953 (appearing in 1952-1954 Supplement of *Laws of the Gold Coast*, page 115);
- (d) section 11 of the Pensions (Amendment) Ordinance, 1957 (No. 5 of 1957);
- (e) the Pensions (Amendment of Regulations) Order, 1957 (L.N. 211 of 1957);
- (f) section 4 of the Pensions (Amendment) Act, 1971 (Act 369); and
- (g) the Social Security (Application to Public Servants) Decree, 1973 (N.R.C.D. 190).

(2) This section shall come into force on the 1st day of January, 1976.

Endnotes

1 (Popup - Footnote)

1. This Act was issued as the Pensions and Social Security (Amendment) Decree, 1975, ([S.M.C.D. 8](#)) made on the 23rd day of December, 1975 and notified in the *Gazette* on 31st December, 1975.

2 (Popup - Footnote)

2. The Police Force is now the Police Service under [article 190](#) of [the Constitution](#).

3 (Popup - Footnote)

3. [Section 4A](#) inserted by section 1 (6) of the Pensions and Social Security (Amendment) Decree, 1978 (S.M.C.D. 178).

4 (Popup - Footnote)

4. Substituted by section 1 (b) of the Pensions and Social Security (Amended) Decree, 1978 (S.M.C.D. 178).

5 (Popup - Footnote)

5. The section provided that

“(1) Subsection (2A) of [section 16](#) of the Pensions Ordinance ([Cap. 30](#)) (as inserted by Act No. 48 of 1958) is hereby amended by the insertion at the end thereof the following proviso:-

‘Provided that for the purpose of computation of the gratuity payable under paragraph (a) of this subsection, the said regulation 26 shall be read as if there were substituted for the words ‘three-fourths’ appearing in subregulation (1) thereof, of the words ‘one-half’.’

(2) Subsection (2A) of section 13 of the Teachers’ Pensions Ordinance, 1955 (No. 23 of 1955) (as inserted by Act No. 44 of 1959) is hereby amended by the insertion at the end thereof the following new proviso:-

‘Provided that for the purposes of computation of the gratuity payable under paragraph (a) of this subsection the said regulation 19 shall be read as if there were substituted for the words “three-fourths” the words “one-half”.’

(3) The amendments made by this section apply only in respect of persons dying on or after the first day of January, 1976.”

6 (Popup - Footnote)

6. [Cap. 30](#) of the 1951 Edition of the Laws of the Gold Coast.

7 (Popup - Footnote)

7. The amendment has been incorporated in the Pensions Act, 1950.

8 (Popup - Footnote)

8. By section 1 (c) of the Pensions and Social Security (Amendment) Decree, 1978 (S.M.C.D. 178) which provided that

“14. Pensions to dependants when a teacher dies in the service.

(1) Where a teacher dies while in teaching service the President may grant, in addition to the grant made under [section 11](#),

(a) if the deceased teacher leaves a spouse, a pension to the spouse, while unmarried at a rate not exceeding one-fourth of the annual pensionable emoluments of the deceased at the date of the death;

(b) if the deceased teacher leaves a spouse to whom a pension is granted under paragraph (a) and a child or children, a pension in respect of each child, until the child attains the age of twenty-one years, of an amount not exceeding one-fourth of the pension prescribed under paragraph (a);

(c) if the deceased teacher leaves a child or children but does not leave a spouse or a pension is not granted to the spouse a pension in respect of each child, until the child attains the age of twenty-one years, of double the amount prescribed by paragraph (b);

(d) if the deceased teacher leaves a child or children and a spouse to whom a pension is granted under paragraph (a) and the spouse subsequently dies, a pension in respect of each child as from the date of the death of the spouse until the child attains the age of twenty-one years of double the amount prescribed in paragraph (b);

(e) if the deceased teacher does not leave a spouse, or if a pension is not granted to the

spouse, and if the parent was wholly or mainly dependent on that teacher for support, a pension to the parent, while without adequate means of support, of an amount not exceeding the pension which might have been granted to the spouse of the deceased.

- (2) For the purposes of subsection 1
- (a) pensions shall not be payable under subsection (1) at any time in respect of more than six children;
 - (b) a pension granted to a parent under paragraph (e) of subsection (1) shall cease as from the date of re-marriage of that parent; and if it appears to the Minister responsible for Education at any time that the parent is adequately provided with other means of support, the pension shall cease as from the date determined by the Minister;
 - (c) a pension granted to a child under this section shall cease on the marriage of the child under the age of twenty-one years;
 - (d) where a deceased teacher leaves more than one widow or children born of more than one marriage, or any persons wholly or in part dependent on that teacher for their support or it is for any other reason impracticable to grant a pension or pensions in the manner prescribed in any of the preceding provisions of subsection (1), the President may grant a pension or pensions, not exceeding in the aggregate the total value of the pensions which might be granted at any one time under those provisions to the widows, children or dependants; but, the amount of any one pension shall not exceed in the case of one or more adult persons or in the case of a child the pension which might have been granted to a spouse or a child respectively under those provisions;
 - (e) where as a result of the death of two officers married to each other, pensions are payable to a child or children of the marriage under this section, only the higher of the two pensions may be paid to the child or children unless the President otherwise directs.

- (3) For the purposes of this section

‘child’ includes

- (a) a posthumous child;
- (b) a step-child or illegitimate child wholly or mainly dependent on the deceased teacher for support; and
- (c) an adopted child, adopted in a manner recognised by law and dependent as aforesaid;

‘spouse’ means a sole spouse;

‘teaching service’, despite the definition contained in the Teachers Pensions Act, 1955 includes service which would be teaching service if the service were not on terms of employment which provide specifically for a gratuity or resettlement grant on cessation of employment or that the employment is temporary employment; and

‘pensionable emoluments’, in a case where the definition of the expression ‘teaching service’ is extended for the purposes of this section, means the emoluments of the deceased teacher which would have been pensionable had that teacher been employed on pensionable terms.

- (4) This section shall not apply in the case of the death of any teacher if his ‘dependants’, as defined in the Workmen’s Compensation Act, 1987 ([P.N.D.C.L. 187](#)) are entitled to compensation under that Act.”

9 (Popup - Footnote)

9. The section provided that

- (1) Regulation 4 of [the Schedule](#) to the Pensions Ordinance ([Cap. 30](#)) (as inserted by the Pensions (Amendment) Decree, 1972 (N.R.C.D. 74)) is hereby amended by the substitution for the words “one-six hundredth” occurring therein of the words “one-four hundred and eightieth”.
- (2) Regulation 4 of the First Schedule to the Teachers Pensions Ordinance, 1955 (as inserted by the Pensions (Amendment) Decree, 1972 (N.R.C.D.74)) is hereby amended by the substitution for the words “one-six hundredth” occurring therein of the words “one-four hundred and eightieth”.
- (3) The amendments made by this section shall come into force on the first day of January, 1976.

10 (Popup - Footnote)

10. The section provided that
- (1) Regulation 10 of [the Schedule](#) to the Pensions Ordinance ([Cap. 30](#)) is hereby amended by the substitution for paragraph (b) thereof of the following new paragraph:
“(b) in the case of any other officer, at the rate of one-four hundred and eightieth part”.
 - (2) Regulation 8 of the First Schedule to the Teachers’ Pensions Ordinance, 1955 is hereby amended by the substitution for the words “one-eight hundredth” of the words “one-four hundred and eightieth”.
 - (3) The amendments made by this section shall only apply to Ghanaians retiring on or after the first day of January, 1976.

11 (Popup - Footnote)

11. The section provided that
- (1) Paragraph (a) of regulation 18 of [the Schedule](#) to the Pensions Ordinance ([Cap. 30](#)) is hereby amended by the substitution for all the words beginning with “one-half” to the end of that paragraph of the words “that period may be taken into account”.
 - (2) Sub regulation (1) of regulation 15 of the Teachers’ Pensions Ordinance, 1955 is hereby amended by the substitution for all the words beginning with “one-half” to the end of that subregulation of the following:
“that period may be taken into account:
Provided that where gratuity would otherwise have been payable or has been paid in respect of that period or part thereof, such gratuity shall not be payable or if paid shall be refunded if such period is taken into account”.
 - (3) The amendments made by this section shall come into force on the first day of January, 1976.

12 (Popup - Footnote)

12. The section provided that
- (1) [Section 3](#) of the Pensions (Amendment) Act, 1971 ([Act 369](#)) is hereby amended
 - (a) in subsection (1) thereof, by the repeal of the words “within six years”,
 - (b) by the substitution for the words “twelve years” in each place where they occur in that subsection, of the words “twenty years”.
 - (2) The amendment made by this section shall apply only in respect of persons dying on or after the first day of January, 1976.

13 (Popup - Footnote)

13. Cap 30 of the 1957 Edition of the Laws of the Gold Coast.

14 (Popup - Footnote)

14. N.R.C.D. 127.