

SRI LANKA



Treaty Series No. 48 (1979)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Sri Lanka

concerning Public Officers' Pensions

(The Public Officers' Pensions (Sri Lanka) Agreement, 1978)

Colombo, 16 May 1978

[The Agreement entered into force on 19 February 1979]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
June 1979*

LONDON

HER MAJESTY'S STATIONERY OFFICE

25p net

Cmd. 7550

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Sri Lanka have agreed as follows :

ARTICLE 1

Interpretation

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 Sri Lanka⁽¹⁾;
- (c) "officer" means an officer to whom the Public Officers Agreement between Her Majesty's Government in the United Kingdom and the Government of Ceylon signed at Colombo on 11 November 1947⁽²⁾ as amended by the Exchange of Notes between the Government of the United Kingdom and the Government of Ceylon dated 20 June 1969⁽³⁾ (hereinafter referred to as "the Public Officers Agreement") applies or applied or to whom the Public Officers Agreement would have applied if he had remained the holder of an office in the public service of Ceylon until immediately before the appointed day of the Public Officers Agreement and who was not a citizen of Sri Lanka on 1 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 Sri Lanka at the time of his retirement or death, as the case may be;
- (d) "other public service" means public service not under the Government of Sri Lanka or any of its predecessor Governments;
- (e) "pension" means any pension or gratuity, including a retiring allowance or annuity or other like benefit and including any compensatory addition to a pension granted under the Special Regulations made under Clause (1) of Article 88 of the Ceylon (State Council) Order in Council 1931 or under the Special Regulations made under Section 88 of the Ceylon (Constitution) Order in Council 1946 or

(1) The appointed day is 1 March 1979.

(2) Cmd. 7257.

(3) Treaty Series No. 118 (1969) Cmnd. 4200

under the Special Regulations made under Article 63 of the Ceylon (Constitution and Independence) Orders in Council, 1946 and 1947 and any increase of pension and a pension arising from death resulting from an injury on duty, an annual allowance arising from injury, a commuted pension gratuity and a gratuity arising from death during service or after retirement, payable under the pensions laws of Sri Lanka;

(f) "pensionable emoluments":

- (i) in respect of public service under the Government of Sri Lanka means emoluments which count for pension under the pensions laws;
- (ii) in respect of other public service, means emoluments which count for pension in accordance with the law or regulations in force in such service;

(g) "pensions laws" means:

- (i) in relation to pensions other than widows' and orphans' pensions, any law, regulation or administrative direction providing for the payment of pensions to officers in respect of public service in Sri Lanka and in force in Sri Lanka at any time prior to 6 April 1973 and enacted prior to that date;
- (ii) in relation to widows' and orphans' pensions, the Widows' and Orphans' Pension Fund Ordinance, Chapter 431 and any amendments thereto in force at any time prior to 6 April 1973 and enacted prior to that date (hereinafter referred to as "Chapter 431"); and
- (iii) in relation both to pensions and to widows' and orphans' pensions, any other law, regulation or administrative direction accepted by the Government of the United Kingdom and the Government of Sri Lanka for the purposes of this Agreement;

(h) "public service" means:

- (i) service in a civil capacity under the Government of Sri Lanka or any of its predecessor Governments or any other country or territory in the Commonwealth;
- (ii) service under the East Africa High Commission, the East African Common Service 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; or
 - (bb) under any Act relating to the superannuation of teachers in the United Kingdom; or

- (cc) under a local authority in the United Kingdom; or
- (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 Sri Lanka to be public service for the purposes of this Agreement;
- (v) except for the purpose 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 Eastern 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;
- (i) "relevant service" means public service in a civil capacity under the Government of Sri Lanka on or after 1 September 1947;
- (j) "Sri Lanka" means and includes, where appropriate, Ceylon;
- (k) "the Sri Lanka element" in relation to a pension (other than a widows' and orphans' pension awarded under Chapter 431) means:
 - (i) in respect of a pension arising from death resulting from an injury on duty, or an annual allowance arising from such an injury, being a pension or annual allowance 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 Sri Lanka which have been taken into account in determining the amount of that pension;
- (l) "widows' and orphans' pensions" means pensions payable under Chapter 431.

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 Sri Lanka 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

The Government of the United Kingdom undertake :

- (a) that they shall award, control, administer and pay the 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 being payable out of public moneys of the United Kingdom, they shall not apply to or in respect of 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 favourable to him;
- (c) that if the Government of Sri Lanka should be adjudged by the order of a competent court of law having jurisdiction in Sri Lanka to be liable to pay or in respect of an officer or the widow or child or legal personal representative of an officer any sum in respect of a pensioner 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 Sri Lanka 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 to or in respect of that person which would otherwise fall to be made by them under this Agreement.

ARTICLE 4

Obligations of the Government of Sri Lanka

- (1) The Government of Sri Lanka undertake :
- (a) that they shall remain responsible for any instalments of pension 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 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 under Chapter 431) awarded before the appointed day to or in respect of an officer, a sum representing the cost, if any, of the Sri Lanka element of such pension;
- (ii) in respect of any pension (other than a widows' and orphans' pension awarded under Chapter 431) awarded on or after the appointed day to or in respect of an officer,
 - (aa) that part of the sum which would represent the Sri Lanka 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; and
 - (bb) 25% of the officer's pensionable emoluments, other than inducement allowance, earned during that part of his relevant service which occurs on or after the appointed day;
- (d) that they shall as soon as possible after the appointed day and with effect therefrom, enact the necessary domestic legislation to give effect to this Article.

(2) The sums payable under sub-paragraph (1)(c)(i) and (1)(c)(ii)(aa) of this Article shall be actuarially of the United Kingdom jointly by two actuaries, one nominated by the Government of the United Kingdom, one nominated by the Government of Sri Lanka and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Sri Lanka would have received in respect of the Sri Lanka element of the pensions.

ARTICLE 5

Supply of Information

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

(1) On and after the appointed day the provisions of any agreement or arrangement relating to the reimbursement of the Government of Sri Lanka by the Government of the United Kingdom of a proportion of the cost of a pension shall cease to apply to any pension payable to or in respect of an officer to whom this Agreement applies in respect of any period beginning on the appointed day.

(2) On and after the appointed day the provisions of paragraphs (3), (4) and (5) of the Public Officers Agreement and the Exchange of Notes dated 20 June 1969 amending 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 Sri Lanka 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 preliminary arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the date on the later of these two notifications.^(*)

ARTICLE 9

Citation

This Agreement may be cited as the Public Officers' Pensions (Sri Lanka) Agreement 1978.

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

Done in duplicate at Colombo this 16th day of May, 1978 (in the English Language)

For the Government of the United Kingdom of Great Britain and Northern Ireland: For the Government of Sri Lanka

D. P. AIERS

SIRIWARDHANA

(*) The Agreement entered into force on 19 February 1979.