



Treaty Series No. 29 (1975)

Agreement

between the Government of the ✓ The Republic
United Kingdom of Great Britain and Northern Ireland
and the Government of the Socialist Republic of the
Union of Burma

concerning Public Officers' Pensions
(The Public Officers' Pensions (Burma) Agreement 1974)

Rangoon, 20 September 1974

[The Agreement entered into force on 27 September 1974]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
May 1975*

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE SOCIALIST REPUBLIC OF THE UNION
OF BURMA CONCERNING PUBLIC OFFICERS' PENSIONS**

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of the Socialist Republic of the Union of Burma (hereinafter referred to as "the Government of Burma") 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 appointed by the Government of the United Kingdom or a person suitably qualified in actuarial practice appointed by the Government of Burma;
- (b) "the appointed day" means the day mutually arranged between the Government of the United Kingdom and the Government of Burma;⁽¹⁾
- (c) "the Burma element" in relation to a pension means:
 - (i) in respect of a pension arising from death resulting from a wound, injury or disease received or contracted on duty, or a pension arising from such wound, injury or disease, being a pension awarded under the Civil Service Regulations or any Regulations or Rules amending or replacing these Regulations 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 official during his relevant service bears to the total pensionable emoluments enjoyed by him throughout his public service;
- (d) "Official" means:
 - (i) an officer appointed to the service of the Crown in a civil capacity by the Secretary of State for Burma or the Secretary of State for India or the Governor of Burma or the Governor General of India; or
 - (ii) an officer or warrant officer of the Armed Forces of Burma or India or an officer of the Indian Medical Service; or

⁽¹⁾ The appointed day is 1 November 1974.

- (iii) a non-commissioned officer or other rank of the Armed Forces of Burma or India in receipt of a disability pension under the Royal Warrant; and who receives a pension in respect of service which
- (aa) ended before 4 January 1948; or
 - (bb) terminated as a result of the Burma Independence Act 1947; or
 - (cc) began before 4 January 1948 and was rendered by a person who, in the opinion of the Government of the United Kingdom, was domiciled outside Asia at the time of appointment; and who was not a citizen of Burma, India or Pakistan or a national of South Yemen on 1 April 1971 or on the date of his death if earlier;
- (e) "Pension" means any pension or gratuity, or any retiring allowance or other like benefit, or any increase of pension, payable under the Regulations and Rules governing the award of pensions by the Government of Burma to or in respect of any official, or to the widow or child of any official or to his legal personal representative;
- (f) "pensionable emoluments" means the pay or salary of the official and, where pension is determined by reference to emoluments, any other emoluments taken into account in determining the pension of the official;
- (g) "Regulations and Rules governing the award of pensions" means:
- (i) Any Regulations and Rules in force in Burma at any time prior to 1 April 1971 and enacted prior to that date providing for pensions in respect of public service, and any law providing for such pensions enacted after that date and accepted by the Government of the United Kingdom for the purposes of this Agreement, and
 - (ii) any other law, regulation, rule or administrative direction accepted by the Government of the United Kingdom and the Government of Burma for the purposes of this Agreement;
- (h) "public service" means service in a civil or military capacity under the Government of Burma or any of its predecessor Governments;
- (i) "relevant service" means public service under the Government of Burma on or after 4 January 1948;
- (j) "the taxation element" means the sum accepted by the two Governments as being equivalent to the proceeds of income tax or any similar direct tax received by the Government of Burma on any sums which are reimbursable in accordance with sub-paragraph (1) (d) of Article 3.

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 Burma 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, to or in respect of officials or the widows or children or personal representatives of officials in relation to the public service of such officials.

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 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 Regulations and Rules governing the award of pensions, 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 any official different provisions from those contained in the Regulations and Rules governing the award of pensions (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 Burma should be adjudged by the order of a competent court of law having jurisdiction in Burma to be liable to pay to or in respect of an official or the widow or child or personal representative of an official any sum in respect of a 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 Burma 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;
 - (d) that they shall reimburse the Government of Burma, in accordance with such procedures as may be mutually arranged between the two Governments, the aggregate amount, less the taxation element, of the following payments due on or after 1 April 1971, being amounts

due under the Regulations and Rules governing the award of pensions, and made by the Government of Burma to or in respect of officials:

- (i) the full cost of payments representing that proportion of a pension (other than a pension awarded under the Civil Service Regulations or any Regulations or Rules amending or replacing these Regulations arising from death resulting from a wound, injury or disease received or contracted on duty, or a pension arising from a wound, injury or disease not resulting in death) or gratuity payable to or in respect of the official which accrues from public service before 4 January 1948;
- (ii) the full cost of payments representing a pension awarded under the Civil Service Regulations or any Regulations or Rules amending or replacing these Regulations arising from death resulting from a wound, injury or disease received or contracted on duty, or a pension arising from a wound, injury or disease not resulting in death, being a wound, injury or disease received or contracted before 4 January 1948.

(2) For the purposes of sub-paragraph (1)(d)(i) of this Article the proportion of a pension or gratuity which accrues from public service before 4 January 1948 is that proportion which the total pensionable emoluments received by the official from his public service prior to 4 January 1948 bears to his total pensionable emoluments received from all his public service.

ARTICLE 4

Obligations of the Government of Burma

- (1) The Government of Burma undertake:
 - (a) that they shall remain responsible for any instalments of pension granted to or in respect of an official or a widow or child or personal representative of an official which remains 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 official or a widow or child or personal representative of an official otherwise than in accordance with the terms of this Agreement;
 - (c) that they shall pay the Government of the United Kingdom in accordance with such arrangements as may be accepted by the two Governments, in respect of any pension awarded before the appointed day to or in respect of an official or to a widow or child or personal representative of an official or which may be awarded on or after the appointed day to a widow or child of an official, a sum representing the cost, if any, of the Burma element of such pensions;
 - (d) that they shall whenever requested to do so by the Government of the United Kingdom, supply to that Government such information in connection with the operation of the arrangements contained in this Agreement as may be specified in such request.

(2) Each of the sums payable under sub-paragraph (1)(c) shall be actuarially determined jointly by two actuaries, one nominated by the Government of the United Kingdom, the other nominated by the Government of Burma and shall be reduced by a sum accepted by the two Governments as representing the tax which the Government of Burma would have received in respect of the Burma element of the pensions.

ARTICLE 5

Modification of this Agreement

If the Government of the United Kingdom and the Government of Burma 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 decision.

ARTICLE 6

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/or other arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the day following the receipt of the later of the these two notifications.⁽²⁾

ARTICLE 7

Citation

This Agreement may be cited as the Public Officers' Pensions (Burma) Agreement 1974.

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

Done in Rangoon this Twentieth Day of September 1974.

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

For the Government of the Socialist Republic of the Union of Burma

T. J. O'BRIEN

CHIT MOUNG

⁽²⁾ The Agreement entered into force on 27 September 1974.

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