

# **LAWS OF BRUNEI**

## **CHAPTER 38**

### **PENSIONS**

**Enactment No. 23 of 1957**

Amended by  
Enactment No. 14 of 1961  
E 9 of 1977

**1984 Edition, Chapter 38**

Amended by  
S 23/1987  
S 37/2008

**REVISED EDITION 2014**



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**REVISED EDITION 2014**

**CHAPTER 38**

**PENSIONS**

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## PENSIONS ACT

### **An Act to make provisions for the payment of pensions to officers in the public services**

*Commencement: 1st March 1959*  
*[S 33/1959]*

#### **Citation.**

1. This Act may be cited as the Pensions Act.

#### **Interpretation.**

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

“inducement pay” means such additions as may from time to time be attached to the salary of an officer by way of inducement;

“non-pensionable office” means an office which is not a pensionable office;

“other public service” means public service not under the Government;

“pensionable emoluments” means —

(a) in respect of service under the Government, salary, personal allowance, and inducement, pay but does not include duty allowance, entertainment allowance or any other emoluments whatever;

(b) in respect of other public service, emoluments which count for pension in accordance with the law or regulations in force in such service;

“pensionable office” means —

- (i) in respect of service under the Government, an office which, by virtue of provision for the time being in force in an order made by His Majesty the Sultan and Yang Di-Pertuan in Council and published in the *Gazette*, is declared to be or to have been as from such date as may be specified in such order (including a date prior to the date of such order), a pensionable office; and any such order may from time to time be amended,

added to, or revoked by an order so made and published:

Provided that where by virtue of any such amendment or revocation any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment or revocation continues therein, the office shall, as respects that person, continue to be a pensionable office:

Provided further that in respect of an officer who was a pensionable officer in the service of the Government on 15th December 1941 being an officer to whom section 5 of the repealed Pensions (Special Provisions) Enactment (Chapter 39 of 1951) applied, the period of service of such officer during the period of enemy occupation and the period subsequent thereto before such officer resumed duty shall be deemed to be service in a pensionable office in Brunei Darussalam;

- (ii) in respect of other public service, an office which is for the time being a pensionable office under the law or regulations in force in such service;

“period of enemy occupation” means the period commencing on 16th December 1941 and ending on 13th June 1945;

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office and specifically declared to be a pensionable allowance;

“public service” means service in a civil capacity under the Government or the government of any other part of Her Britannic Majesty’s dominions or of any British protected state or protectorate or mandated or trust territory administered by the government of any part of Her Britannic Majesty’s dominions, or of the New Hebrides or the Anglo-Egyptian Sudan, or under the East African Railways and Harbour Administration or service which is pensionable under the Teachers (Superannuation) Act 1925 or any Act amending or replacing the same or under the Overseas Superannuation Scheme or in a Colonial University College or pensionable employment under a local authority in the United Kingdom, or in such other service as His Majesty the Sultan and Yang Di-Pertuan in Council may determine to be

“public service” for the purpose of any provision of this Act, and, except for the purposes of computation of pension or gratuity and of section 9, includes service as a Governor General, Governor or High Commissioner in any part of Her Britannic Majesty’s dominions, any British protected state or protectorate, any mandated or trust territory administered by the Government of any part of Her Britannic Majesty’s dominions, or the Anglo-Egyptian Sudan, or the East African Railways and Harbour Administration;

“Retirement Fund” means the Trust Sub-Fund established by section 4(2)(b) of the Sustainability Fund Act (Chapter 208);

[S 37/2008]

“salary” means the salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office.

(2) For the avoidance of doubt, it is hereby declared that, where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise require, such last mentioned office is, for the purposes of this Act, an office in which he has been confirmed.

### **Pensions regulations.**

3. (1) Pensions, gratuities and other allowance may be granted by the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, in accordance with the regulations contained in the Schedule to persons who have been in service under the Government or to their legal personal representatives or dependants. The regulations may be amended, added to or revoked by regulations made by His Majesty the Sultan and Yang Di-Pertuan in Council and published in the *Gazette*.

(2) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of an officer’s retirement.

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(3) All regulations made under this section shall have the same force and effect as if they were contained in the Schedule and the expression “this Act” shall, wherever it occurs in this Act, be construed as including a reference to the said Schedule.

(4) Wherever the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose.

**Pensions etc. to be charged on Retirement Fund.**

4. There shall be charged on and paid out of the Retirement Fund all such sums of money as may from time to time be granted by way of pension, gratuity or other allowances in pursuance of this Act.

*[S 37/2008]*

**Pensions etc. not of right.**

5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowance; nor shall anything in this Act affect the right of the Government to dismiss any officer at any time and without compensation.

(2) Where it is established to the satisfaction of the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* that an officer has been guilty of negligence, irregularity or misconduct, it shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* to reduce or to altogether withhold the pension, gratuity, or other allowance for which such officer would have become eligible but for the provisions of this section.

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — *[S 36/1984]*

(3) If an officer is dismissed from service under the Government for any such negligence, irregularity or misconduct, no pension, gratuity or other allowance shall be granted, unless in any special case the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* otherwise directs, and any such direction may, irrespective of the wishes of the officer concerned, also determine whether any pension or gratuity shall be in the form of a reduced pension or gratuity.

### **Circumstances in which pension may be granted.**

6. No pension, gratuity or other allowance shall be granted under this Act to any officer except on his retirement from the public service in one of the following cases —

(a) on or after attaining the age of 55 years or, with the consent of the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, 50 years or, in the case of a female officer, 45 years;

(b) in the case of a police officer below the rank of Assistant Superintendent or in the case of any other police officer who would if it were not for the passing of this Act have been eligible to have retired on attaining the age of 45 years or in the case of a prison officer below the rank of Superintendent at any time after he has attained the age of 45 years;

(c) in the case of transfer to other public service, on or after attaining the age at which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity or, if no age is prescribed by that law or regulations, on or after attaining the age of 55 years or, in the case of a female officer, 45 years;

(d) on the abolition of his office;

(e) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected;

*[S 23/1987]*

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — *[S 36/1984]*

(f) on medical evidence to the satisfaction of the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;

(g) in the case of termination of employment in the public interest as provided by section 7; or

(h) on retirement in circumstances, not mentioned in paragraphs (a), (b), (c), (d), (e) and (f) rendering him eligible for a pension under the Pensions (Governors of Dominions, etc.) Acts 1911 to 1947 or any Act amending or replacing those Acts:

Provided that a gratuity may be granted to a female officer, in accordance with the provisions of this Act, who retires for the reason that she has married or is about to marry, notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance.

#### **Termination of employment in public interest.**

7. Where an officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer thereto and all the other circumstances of the case, such termination is desirable in the public interest, and a pension, gratuity or other allowance cannot otherwise be granted to him under the provision of this Act, the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in section 6(f).

#### **Compulsory retirement.**

8. (1) No officer shall be retained in public service under the Government after he has attained the age of 55 years save in exceptional cases and with the approval of the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*.

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(2) It shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to require an officer to retire from the public service of Brunei Darussalam —

(a) at any time after he attains the age of 55 years;

(b) in the case of a police officer below the rank of Assistant Superintendent or in the case of any other police officer who would if it were not for the passing of this Act have been eligible to have retired on attaining the age of 45 years or in the case of a prison officer below the rank of superintendent at any time after he has attained the age of 45 years; or

(c) in the case of a female officer, on marriage.

### **Maximum pension.**

9. (1) Except in cases provided for by subsection (2), a pension granted to an officer under this Act shall not exceed three-fourths of the highest pensionable emoluments drawn by him at any time in the course of his service under the Government.

(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the funds of Brunei Darussalam an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceed three-fourths of the highest pensionable emoluments drawn by him at any time in the course of his public service:

Provided that where an officer receives, in respect of some period of public service, both a gratuity and a pension, the amount of such pension shall be deemed for the purpose of this subsection to be what it would have been if part of it had not been commuted or, in the case of a pension granted under the Superannuation Acts of the United Kingdom, to be four-thirds of its actual amount.

(3) Where the limitation prescribed by subsection (2) operates, the amount of the pension to be drawn from the funds of Brunei Darussalam shall be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(4) For the purposes of subsections (1), (2) and (3), an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Act, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of his highest pensionable emoluments at any time in the course of his public service.

**Liability of pensioners to be called upon to take further employment.**

**10.** (1) Every pension granted under this Act shall be subject to the condition that unless or until the officer has attained the age of 50 years or, in the case of a female officer, 45 years, the officer may, if physically fit for service be called upon by the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to accept an office under the Government not less in value than the office which he held at the date of his retirement.

(2) If a pensioner so called upon declines without reasonable cause to accept such office, the payment of his pension may be suspended until he has attained the age of 50 years or, if a female officer, 45 years.

**Suspension of pensions on re-employment.**

**11.** If an officer to whom a pension has been granted under this Act is appointed to another office in the public service, the payment of his pension may, with his consent, if the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* thinks fit, be suspended during the period of his re-employment.

**Pensions etc. not to be assignable.**

**12.** A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying —

(a) a debt due to the Government; or

(b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, former wife or minor child, whether legitimate or not, of the officer to whom the pension gratuity or other allowance has been granted,

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due the Government.

**Pensions etc. to cease on bankruptcy.**

13. (1) If any person to whom a pension or other allowance has been granted under this Act is adjudicated bankrupt or is declared insolvent by judgment of any competent court, then such pension or allowance shall forthwith cease.

(2) If any person is adjudicated bankrupt or declared insolvent as aforesaid either —

(a) after retirement in circumstances in which he is eligible for pension or allowance under this Act but before pension or allowance is granted; or

(b) before such retirement, and he shall not have obtained his discharge from bankruptcy or insolvency at the date of retirement,

then in the former case, any pension or allowance eventually granted to him shall cease as from the date of adjudication or declaration, as the case may be, and, in the latter case, the pension or allowance may be granted but shall cease forthwith and not become payable.

(3) Where a pension or allowance ceases by reason of this section, it shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, as he shall think fit, to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance, had he not become bankrupt or insolvent, to be paid to, or applied for the maintenance or benefit of, all or any (to the exclusion of the other or others), of the following —

(a) such person himself; and

(b) any wife, child or children of his,

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

in such proportions and manner as the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* thinks proper, and such moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of the debts of the person whose pension or allowance has so ceased shall, for the purposes of this section, be regarded as applied for his benefit.

(5) When a person whose pension or allowance has so ceased obtains his discharge from bankruptcy or insolvency, it shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to direct that the pension or allowance shall be restored as from the date of such discharge or any later date, and the pension or allowance shall be restored accordingly.

#### **Pensions etc. may cease on conviction.**

14. (1) If any person to whom a pension or other allowance has been granted under this Act is sentenced to death or a term of imprisonment by any competent court for any offence, such pension or allowance shall, if the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\* so directs, cease from such date as he determines.

(2) If any person is sentenced as aforesaid after retirement in circumstances in which he is eligible for pension or allowance under the Act but before the pension or allowance is granted, then the provisions of subsection (1) shall apply as respects any pension or allowance which may be granted to him.

(3) Where a pension or allowance ceases by reason of this section, it shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance had he not been sentenced as aforesaid to be paid, or applied, in the same manner in all respects as prescribed in section 13, and the moneys shall be paid or applied accordingly.

(4) If the person after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect;

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

but in determining whether arrears of such pension or allowance are payable to the person and in computing the amount thereof, account shall be taken of all moneys paid or applied under subsection (3).

**Pensions etc. may cease on accepting certain appointments.**

**15.** (1) If any person to whom a pension or other allowance has been granted under this Act otherwise than under section 18 becomes either a director of any company the principal part of whose business is in any way directly concerned with Brunei Darussalam, or an officer or servant employed in Brunei Darussalam by any such company, without prior permission of His Majesty the Sultan and Yang Di-Pertuan in writing, the pension or allowance shall cease if His Majesty the Sultan and Yang Di-Pertuan so directs:

Provided that it shall be lawful for His Majesty the Sultan and Yang Di-Pertuan, on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Brunei Darussalam, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he shall see fit, to such a date as he shall specify, and the pension or allowance shall be restored in accordance with any such directions.

(2) The provisions of this section cease to apply to any person to whom a pension or other allowance has been granted under this Act after a period of 5 years from the date of his retirement.

**Gratuity where an officer dies in service or after recruitment.**

**16.** (1) (a) It shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to grant to a widow, or a widow and children, or children, of an officer or, if there is no widow or child, to his personal legal representative, where the officer —

- (i) holds a pensionable office and is not on probation or agreement; or
- (ii) holds a non-pensionable office to which he has been transferred from a pensionable office, in which he has been confirmed; and

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(iii) dies while in service under the Government, a gratuity of an amount not exceeding his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater.

(b) For the purposes of this section —

- (i) “annual pensionable emoluments” means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his death in the circumstances described in section 6(f);
- (ii) “commuted pension gratuity” means the gratuity, if any, which might have been granted to the officer under regulation 24 in the Schedule if his public service had been wholly under the Government and if he had retired at the date of his death in the circumstances described in section 6(f) and had elected to receive a gratuity and reduced pension.

(2) It shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to grant to a widow, or a widow and children, or children, of any officer described in subsection (1)(a)(i) and (ii) or, if there is no widow or child, to his personal legal representative, where —

- (i) such officer has been granted a pension, gratuity or other allowance under this Act; and
- (ii) he dies after retirement from service under the Government; and
- (iii) the sums paid or payable to him at his death on account of pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his retirement,

a gratuity equal to the deficiency.

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(3) The provisions of this section do not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Overseas Superannuation Scheme in respect of such death.

(4) For the purposes of this section —

(a) “widow” means, in the case of a deceased officer who is a Muslim, all his legal wives living at the time of his death;

(b) “child” means an adult and minor child and includes a child as defined under section 18(3)(b) as if the expression “the date of the injury” were substituted with “the date of the death”.

(5) A widow, or a widow and children, or children, of a deceased officer shall receive such proportion of the total amount of the gratuity which may be granted under this section as His Majesty the Sultan and Yang Di-Pertuan may direct either in a particular case or generally.

**Derivative pension or gratuity where officer dies in service or after recruitment.**

17. (1) It shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, in addition to the grant, if any, made under section 16, to grant to a widow, or a widow and children, or children, of an officer who —

(a) holds —

(i) a pensionable office and is not on probation or agreement; or

(ii) a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed; and

(b) dies while in service under the Government,

a derivative pension or gratuity appropriate to his case; and where a derivative pension is granted, the derivative pension may be paid for a period not exceeding 15 years with effect from the date immediately following the date of the death of the officer.

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(2) It shall be lawful for the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan\*, to grant to a widow, or a widow and children, or children, of an officer who —

(a) holds —

- (i) a pensionable office and is not on probation or agreement; or
- (ii) a non-pensionable office to which he has been transferred from a pensionable office in which he has been confirmed;

(b) retires on pension or annual allowance from service under the Government; and

(c) dies within a period of 15 years of his date of retirement,

a derivative pension of the same amount as the pension or annual allowance which was paid or payable to the officer on account of his retirement, with effect from the date immediately following the date of the death of the officer for a period not exceeding the difference between the aforesaid period of 15 years and the period during which the pension or annual allowance was paid or payable to the officer.

(3) (a) A widow in respect of whom a derivative pension is granted under this section shall cease to be eligible for such a pension upon her re-marriage.

(b) A child in respect of whom a derivative pension is granted under this section shall cease to be eligible for such a pension upon such child attaining the age of 21 years or upon marriage below such age.

(4) For the purposes of this section —

(a) “widow” has the same meaning as for the purposes of section 16;

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\* Transferred from His Majesty in Council to the Minister of Finance, with the approval of His Majesty the Sultan and Yang Di-Pertuan, with effect from 1st January 1984 — [S 36/1984]

(b) “child” means a child under 21 years of age and includes a child as defined under section 18(3)(b) as if for the expression “the date of the injury” there were substituted “the date of the death”.

(5) A widow, or a widow and children, or children, of a deceased officer shall receive such proportion of the total derivative pension or gratuity which may be granted under this section as His Majesty the Sultan and Yang Di-Pertuan may direct either in a particular case or generally.

(6) This section shall be deemed to have come into force on the 1st December 1973.

### **Pensions to dependants when officer is killed on duty.**

**18.** (1) It shall be lawful for His Majesty the Sultan and Yang Di-Pertuan in Council, in addition to the grant if any made under section 16, to grant to such dependants as are hereinafter defined of an officer who dies as a result of injuries received —

- (a) in the actual discharge of his duty;
- (b) without his own default; and
- (c) on account of circumstances specifically attributable to the nature of his duty;

while in service under the Government, the following pension —

- (i) if the deceased officer leaves a widow, a pension to her, while unmarried and of good character, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury, or \$240 a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under paragraph (i) and child or children, a pension in respect of each child, until such child attains the age of 21 years, of an amount not exceeding one-eighth of the pension prescribed under paragraph (i);

- (iii) if the deceased officer leaves a child or children, but does not leave a widow or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of 21 years, of double the amount prescribed by paragraph (ii);
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i), and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of 21 years, of double the amount prescribed in paragraph (ii);
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow, and if his mother was wholly or mainly dependent on him for her support, a pension to the mother, while of good character and without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
- (vi) if the deceased officer does not leave a widow or mother, or if no pension is granted to his widow or mother, and if his father was wholly or mainly dependent on him for his support, a pension to the father, while of good character, of an amount not exceeding the pension which might have been granted to his widow;
- (vii) if the deceased officer does not leave a child or children who is or are eligible for a pension under the provisions of this section, and if any brother or sister was wholly or mainly dependent on him for support, a pension in respect of any such brother or sister of the same amount and subject to the same conditions as the pension which might have been granted in respect of a child under paragraph (ii), (iii) or (iv):

Provided that —

- (a) pension shall not be payable under this subsection at any time in respect of more than six children;

(b) in the case of a pension granted under paragraph (v), if the mother is a widow at the time of the grant of the pension and subsequently remarries, such pension shall cease as from the date of re-marriage;

(c) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of 21 years;

(d) in the case of a pension granted under paragraph (v), (vi) or (vii), if it appears to His Majesty the Sultan and Yang Di-Pertuan in Council at any time that the mother or father, or any brother or sister, is adequately provided with other means of support, such pension shall cease as from such date as His Majesty the Sultan and Yang Di-Pertuan in Council may determine.

(2) In the case of an officer not holding a pensionable office, in subsection (1), “pensionable emoluments” means the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(3) For the purposes of this section, in relation to an officer —

(a) “brother” includes every male child of his father or of his mother;

(b) “child” includes —

- (i) a posthumous child;
- (ii) a step-child or illegitimate child born before the date of the injury and wholly or mainly dependent upon him for support; and
- (iii) an adopted child, adopted in manner recognised by law, before the date of the injury, and dependent as aforesaid;

(c) “father” includes his step-father and a male person by whom he has been adopted;

(d) “mother” includes his step-mother and a female person by whom he has been adopted;

(e) “sister” includes every female child of his father or of his mother;

(f) “widow” means, in the case of a deceased officer who is a Muslim, all his legal wives living at the time of his death:

Provided that each of such widows shall receive only a proportionate part, the amount of which to be decided by the Syariah High Court, of the total pension payable under this section to an only widow.

(4) If an officer proceeding by a route approved by the Minister to or from Brunei Darussalam at the commencement or termination of his service therein, or of a period of leave therefrom, dies as the result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel, aircraft or vehicle, and His Majesty the Sultan and Yang Di-Pertuan is satisfied that such damage or act is attributable to circumstances arising out of any war in which His Majesty the Sultan and Yang Di-Pertuan may be engaged, the officer shall be deemed, for the purpose of this section, to have died in the circumstances described in subsection (1):

Provided that this subsection does not apply in the case of an officer who is eligible to receive an award under subsection (5).

(5) An officer who dies as a result of injuries received while travelling by air in pursuance of official instructions is deemed to have died in the actual discharge of his duty and on account of circumstances specifically attributable to the nature of his duty; and if his injuries were not due to his own default, the rates of pension prescribed in subsection (1)(i) and (ii) shall be fifteen-sixtieths and one-sixth, respectively.

(6) This section does not apply in the case of the death of any officer selected for appointment to service under the Government on or after the commencement of the Workmen’s Compensation Act (Chapter 74), if his dependants as defined in that Act received payment thereunder, or where benefits corresponding to the benefits granted under this section are payable under the Overseas Superannuation Scheme in respect of his death, or whose widow, or widow and children, or children, are eligible to receive an award under section 17.

**Application of Act.**

19. (1) The provisions of this Act apply to —

(a) every officer first appointed to public service under the Government —

(i) after the commencement of this Act; or

(ii) before the commencement of this Act, to whom it was intimated before appointment that he would be liable to be affected by any change in the pensions law of Brunei Darussalam; and

(b) every other officer serving under the Government at the commencement of this Act, or transferred from Brunei Darussalam to any other public service before the date of such commencement and still in public service on that date, unless not later than 12 months after such commencement or within such further period as the Minister\* may in any special case allow, he gives notice in writing to the Minister\* of his desire that the provisions of the Enactments and Regulations referred to in section 20 apply to him, in which case they continue to apply accordingly.

(2) Notwithstanding anything in this Act contained, where any officer is seconded to public service under the Government from any other public service, the conditions relating to the pension of such officer shall be governed by any agreement between the government and the government of the other territory concerned relating to such secondment.

**Repeal and savings.**

20. Pensions Enactment (Chapter 38 of 1951), the Pensions (Special Provisions) Enactment (Chapter 39 of 1951) and the Malayan Establishment Pensions Enactment 1948 (1 of 1948) and all subsidiary legislation made under those Enactments are hereby repealed:

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\* Transferred from the Menteri Besar\*\* to the Minister with effect from 31st December 1983 — [S 32/1983]

\*\* Transferred from the Resident to the Menteri Besar with effect from 29th September 1959 — [S 99/1959]

Provided that —

(a) all notifications declaring offices to be pensionable offices or classes to be pensionable classes made under the Pensions Enactment shall be deemed to have been made under this Act and shall continue in force until cancelled or varied by notifications published in the *Gazette* made under this Act;

(b) all pensions, gratuities or other allowances granted under or by virtue of the Enactments hereby repealed shall be deemed to have been granted under this Act and shall continue to be payable until determined under and in accordance with this Act;

(c) all rights accrued in respect of pensions, gratuities or other allowances under or by virtue of any of the Enactments hereby repealed shall continue to subsist under this Act.

#### **Gratuities and other allowances for non-pensionable officer.**

21. His Majesty the Sultan and Yang Di-Pertuan may give directions for the payment of gratuities or other allowances to an officer who has served in a non-pensionable office and who is not eligible for the award of any pension, gratuities or other allowances under the provisions of this Act or under the Overseas Officers Widows' and Children's Pensions Regulations, 1967 (S 185/1967).

#### **Delegation of powers and discretions of His Majesty the Sultan and Yang Di-Pertuan in Council.**

22. The powers and discretions vested in His Majesty the Sultan and Yang Di-Pertuan in Council by this Act and the duties required to be discharged may, subject to such limitations as may be prescribed, be exercised by a public officer or public body duly authorised in that behalf by His Majesty the Sultan and Yang Di-Pertuan in Council.

#### **Muslim law.**

23. The grant or award of a pension, gratuity or other allowance made under this Act to the widow, children and other dependants of a deceased officer shall for the purpose of Muslim law be deemed to be gifts from the Government and not *waris* nor forming part of the estate of the deceased officer.