

LAWS OF BRUNEI

CHAPTER 18

OLD AGE AND DISABILITY PENSIONS

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CHAPTER 18

OLD AGE AND DISABILITY PENSIONS

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SCHEDULE

OLD AGE AND DISABILITY PENSIONS ACT

An Act to provide for pecuniary payments by way of old age pensions, pensions for blind persons, allowances for dependants of persons suffering from Hansen's disease and lunatics, disability pensions and such other pensions and allowances as prescribed and for all matters incidental thereto

[S 35/2013]

Commencement: 1st January 1955

Citation

1. This Act may be cited as the Old Age and Disability Pensions Act.

Interpretation

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

“Controller” means the Controller of Pensions, and includes any Deputy Controller, appointed under section 3;

“dependant” means any person who satisfies the Pensions Officer that —

(a) he is a member of the family of any person fulfilling the statutory conditions; and

(b) his requirements are normally mainly provided for by the person fulfilling such statutory conditions;

“member of the family” means a wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, grand-daughter, step-son, step-daughter, brother, sister, half-brother or half-sister, or any adopted child whose adoption has been registered under any law for the time being in force in Brunei Darussalam relating to the adoption of children, or any child adopted in accordance with any system of personal law;

“Minister” means the Minister of Culture, Youth and Sports;

[S 35/2013]

“Pensions Officer” includes the Controller, and any Pensions Officer appointed under section 3;

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

[S 38/2008]

“statutory conditions” means the conditions under which, by virtue of the provisions of this Act and any regulations made thereunder, any person qualifies for any pension or allowance granted in pursuance of this Act;

“system of personal law” means a system of personal law recognised by the general law of Brunei Darussalam as being applicable to the members of any racial, religious or other community in Brunei Darussalam by reason of their being members of such community.

Appointment of Controller of Pensions and other officers

3. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint a Controller of Pensions, a Deputy Controller of Pensions and such Pensions Officers and other officers as he may consider necessary for the carrying out of the provisions of this Act and any regulations made thereunder.

(2) The Deputy Controller and all Pensions Officers and other officers appointed under subsection (1) shall be under the direction of the Controller.

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 or allowance in pursuance of this Act.

[S 38/2008]

Pensions etc. not of right

5. No person shall have an absolute right to any pension or allowance granted in pursuance of this Act.

Receipt of pensions etc. not to affect any other privileges

6. The receipt of any pension or allowance granted in pursuance of this Act shall not deprive the recipient of any franchise, right or privilege to which he may be entitled, or subject him to any disability.

Description of pensions and allowances

7. The following pensions and allowances may, in accordance with the regulations contained in the Schedule, be granted in pursuance of this Act —

(a) old age pension;

(b) pensions for the blind, including allowances for the dependants of any blind person;

(c) allowances for the dependants of any person suffering from Hansen's disease while such leper is receiving treatment in any leper colony or settlement approved by the Director-General of Medical Services;

[GN 273/2002]

(d) allowances for a mentally disordered person who is under the provisions of the Mental Health Order, 2014 (S 25/2014), either detained in a psychiatric facility or committed to the care of any relative or friend, or his dependants;

[S 25/2014]

(e) disability pension;

(f) such other pensions and allowances as the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, may prescribe.

[S 35/2013]

Regulations relating to certain pensions etc.

8. (1) The Minister may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make regulations which are necessary or expedient for giving effect to and carrying out the provisions of this Act, including the prescription of anything required to be prescribed under this Act, and for the due administration thereof.

[S 35/2013]

(2) All regulations made under this section shall have the same force and effect as if they were contained in this Act.

(3) Whenever the Minister, with the approval of His Majesty the Sultan and Yang Di-Pertuan, is satisfied that it is equitable or expedient in the interests of public faith or good government that any regulations 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.

[S 35/2013]

Pensions etc. not to be assignable

9. A pension or other allowance granted in pursuance of this Act shall not be assignable, transferable or chargeable except for the purpose of satisfying—

- (a) a debt due to Government; or
- (b) an order of any competent Court;

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

Pensions etc. to cease upon events

10. (1) If any person to whom a pension or other allowance granted in pursuance of this Act —

- (a) is adjudicated bankrupt;
- (b) is declared insolvent by judgment of any competent Court;
- (c) is sentenced to a term of imprisonment by any competent Court for any offence; or
- (d) ceases to fulfil any of the statutory conditions qualifying him for the payment of such pension or allowance,

then such pension or allowance shall, subject to section 11, forthwith cease.

(2) When any person whose pension or allowance has ceased —

- (a) under subsection (1)(a) or (b), obtains his discharge from bankruptcy or insolvency;
- (b) under subsection (1)(c), at any time after conviction receives a free pardon or completes the term of imprisonment to which he has been sentenced; or

(c) under subsection (1)(d), subsequently fulfils the statutory conditions qualifying him for the payment of such pension or allowance,

then it shall be lawful for the Controller to direct that the pension or allowance shall be restored as from the date of such discharge, pardon or other event by virtue of which such person may qualify for such pension or allowance, or any later date, and the pension or allowance shall be restored accordingly:

Provided nevertheless that in determining whether arrears of such pension or allowance are payable to such person, and in computing the amount thereof, account shall be taken of any moneys paid or applied under the provisions of section 11.

Power to direct payment of moneys relating to maintenance or benefit of dependant during disqualification from benefit

11. Where a pension or allowance granted in pursuance of this Act ceases by reason of section 10(1), it shall be lawful for the Controller, during the remainder of the life of the person in respect of whom such pension or allowance is granted, or during such shorter period or periods, either continuous or discontinuous, as the Controller shall think fit, to direct that 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 so disqualified, shall be paid to or for the maintenance or benefit of all or any, to the exclusion of the other or others, such person and any dependant of his, in such proportions and manner, as the Controller thinks proper, and such moneys shall be paid or applied accordingly.

Residence in Brunei Darussalam a condition of benefit

12. (1) No pension or allowance shall be granted or payable in pursuance of this Act unless the person to whom such pension or allowance is granted is resident within Brunei Darussalam.

(2) For the purposes of subsection (1), residence within Brunei Darussalam shall include any period —

(a) of temporary absence from Brunei Darussalam, not exceeding 3 months in duration at any one time;

(b) of absence spent in service on board a vessel registered in Brunei Darussalam by a person who before his absence on that service was living in Brunei Darussalam;

(c) spent abroad in any service under the Government or as the wife or servant of a person in any such service;

(d) spent abroad by any person during which that person has maintained or assisted in maintaining any dependant in Brunei Darussalam;

(e) spent abroad by any person for the purpose of performing a religious pilgrimage.

Determination of claims

13. Every claim for any pension or allowance to be granted in pursuance of this Act, and every question whether —

(a) in the case of any person claiming such pension or allowance, the statutory conditions are fulfilled;

(b) in the case of a person in receipt of such pension or allowance, such conditions continue to be fulfilled; or

(c) any person is disqualified for receiving such pension or allowance,

shall be decided by the Pensions Officer.

Appeal from Pensions Officer and others to Controller

14. Any person who is dissatisfied with the exercise of any discretion conferred on any officer other than the Controller by this Act may appeal against such exercise to the Controller, who may make such order in respect thereof as he may consider just.

Appeal from Controller to Minister

15. (1) Any person who is dissatisfied with any decision confirmed by, or any order, action or decision of the Controller either as to the carrying out of or the meaning of any of the provisions of this Act or by any order under section 14 may appeal against such order, action or decision to the Minister by sending by registered post a petition, concisely stating the grounds of

appeal, to the Secretary to the Council of Ministers within 21 days, or such longer time as His Majesty in Council may allow, of being notified of such order, action or decision, as the case may be.

[S 35/2013]

(2) *Repealed by S 35/2013.*

(3) (a) The Minister may dismiss any appeal, or may affirm, modify, amend or reverse, either wholly or in part, the Controller's order, action or decision appealed against.

[S 35/2013]

(b) Where an order, action or decision is modified, amended or reversed by the Minister, the Controller shall give effect to such order, action or decision as thus modified, amended or reversed.

[S 35/2013]

(c) The decision of the Minister upon any appeal shall be final and shall not be questioned in any court.

[S 35/2013]

Powers of Pensions Officers

16. (1) All Pensions Officers shall be deemed to be public servants for the purposes of the Penal Code and shall for the purposes of Chapter X of the Penal Code (Chapter 22) be legally competent to require that any person applying for or in receipt of any pension or allowance to be granted or granted in pursuance of this Act, either for himself or any other person shall —

(a) attend in person or by an agent at a certain time and place in obedience to a notice from such Officer;

(b) produce or deliver up to such Officer any document relating to the statutory conditions to be fulfilled by himself or such other person;

(c) be bound to give such notice or furnish such information as such Officer may require in relation to such pension or allowance;

(d) sign any statement made by him in relation to such pension or allowance.

(2) Every Pensions Officer shall be legally competent to require that any person applying for, or in receipt of any pension or allowance to be granted or granted in pursuance of this Act, shall without expense to such person submit to medical examination by a Government Medical Officer, or by any qualified medical practitioner approved by the Director-General of Medical Services; and if such person fails to submit himself for such examination, no pension or allowance shall be payable to or in respect of such person unless the Controller is satisfied that there was reasonable cause for the failure:

[GN 273/2002]

Provided nevertheless that such person shall be entitled at his own expense to have his own medical practitioner present at the examination.

(3) For the purposes of this Act, all Pensions Officers shall be authorised to take and receive in Brunei Darussalam the declaration of any person making such declaration in the form in the Schedule to the Statutory Declarations Act (Chapter 12).

Penalty for false statements etc.

17. Any person who, for the purpose of obtaining or continuing a pension or allowance to be granted or granted in pursuance of this Act, either for himself or any other person, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, touching any point material to the grant of such pension or allowance, is guilty of an offence and liable on conviction to a fine of \$5,000 and imprisonment for 6 months.

Medical Officer's certificate of age to be evidence thereof

18. Any certificate purporting to be under the hand or seal of the Director-General of Medical Services or any Government Medical Officer concerning the age of any person claiming or in receipt of any pension or allowance payable in pursuance of this Act shall, for the purposes of this Act and of any proceedings hereunder, be *prima facie* evidence in all courts and before all tribunals of the age of such person.

[GN 273/2002]

Recovery of pensions etc. incorrectly paid

19. If it is found at any time that any person has been in receipt of a pension or allowance granted in pursuance of this Act to or in respect of any person while the statutory conditions in relation to such pension or allowance

were not fulfilled in the case of such person, or while such person was disqualified from receiving the pension or allowance, he, or in event of his death his personal representative, shall be liable, if the Controller so orders, to repay to the Government any sums granted in respect of such period, and the amount of such sums may be recovered as a debt due to the Government:

Provided that in the case of a personal representative such repayment shall only be made from any sums to which that person becomes entitled as a personal representative.

Prohibition against double benefit except in respect of old age pension and pension for blind

20. (1) Except as provided in this section, not more than one pension or allowance payable in pursuance of this Act shall be payable to or in respect of any one person.

(2) Where any person fulfils the statutory conditions relating to —

(a) the pension referred to in section 7(a); and

(b) the pension referred to in section 7(b),

both those pensions shall be payable to that person.

(3) Subject to subsection (2), where any person fulfils the statutory conditions relating to two or more pensions or allowances payable in pursuance of this Act the Pensions Officer may, in his discretion, grant the pension or allowance conferring the greater benefit upon or in respect of that person.

Sanction necessary for prosecution

21. No prosecution for any offence under section 17 shall be instituted except with the sanction of the Public Prosecutor, a Deputy Public Prosecutor or the Controller.

Grant of pensions etc. not to imply right to citizenship

22. The grant of any pension or allowance under this Act shall not imply any right to citizenship of Brunei Darussalam.

Rules

23. The Controller, with the approval of the Minister, may make rules to provide for all or any of the following matters —

[S 35/2013]

(a) the form of any certificates, notices, registers and other documents required for the purpose of carrying out this Act;

(b) the custody of any certificates, notices, registers and other documents connected with the granting of pensions and allowances in pursuance of this Act;

(c) the rendering of returns by Pensions Officers;

(d) the hearing of appeals under section 14 and the procedure to be followed thereunder;

(e) the establishment of committees to advise the Controller and Pensions Officers in the exercise of their powers under this Act and the allowances to be paid to members of such committees;

(f) any other matters as to which the Controller considers it expedient to make rules for carrying into effect the objects of this Act.

SCHEDULE

(section 8)

OLD AGE AND DISABILITY PENSIONS REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Old age pensions
4. Pensions and allowances for blind
5. Rehabilitation allowance for sufferers from Hansen's disease
6. Allowances in respect of dependants of sufferers from Hansen's disease
7. Allowance in respect of mentally disordered persons
8. Disability pensions
9. No benefit until qualified
10. Pensions etc. to be subject to certain conditions of identification etc.
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SCHEDULE — PENSIONS AND ALLOWANCES

SCHEDULE — *(continued)*

OLD AGE AND DISABILITY PENSIONS REGULATIONS

Citation

1. These Regulations may be cited as the Old Age and Disability Pensions Regulations.

Interpretation

2. In these Regulations, “residence” includes any period specified in section 12(2).

Old age pensions

3. A pension, to be called an “old age pension”, shall be payable at the rate specified in the Schedule to these Regulations to any person who satisfies the Pensions Officer that —

(a) he has attained the age of 60 years; and

(b) either —

(i) he was born in Brunei Darussalam and has resided in Brunei Darussalam for a period of at least 10 years; or

(ii) he was born outside Brunei Darussalam and has resided in Brunei Darussalam for a period of at least 30 years,

immediately preceding the date upon which he became eligible for such pension.

Pensions and allowances for blind

4. (1) A pension, to be called a “pension for the blind”, shall be payable at the rate specified in the Schedule to these Regulations to any person who satisfies the Pensions Officer that —

(a) he has attained the age of 15 years;

(b) he is by virtue of his blindness unable to work; and

(c) he has resided in Brunei Darussalam for a period of at least 10 years immediately preceding the date upon which he became eligible for such pension.

SCHEDULE — (continued)

(2) Whenever the Pensions Officer is satisfied that there exists a need for such allowance, an allowance shall be paid to the dependant of any person in receipt of a blind pension under sub-regulation (1), at the rate specified in the Schedule to these Regulations.

Rehabilitation allowance for sufferers from Hansen's disease

5. An allowance to be called a "rehabilitation allowance" may be paid at the rate specified in the Schedule to these Regulations for a period of 6 months from the date of his discharge from a colony or settlement for persons suffering from Hansen's disease approved by the Director-General of Medical Services to any person who satisfies the Pensions Officer that —

[GN 273/2002]

(a) he has resided in Brunei Darussalam for a period of at least 10 years before entering such colony or settlement;

(b) he has been discharged from such colony or settlement with the approval of the Director-General of Medical Services:

[GN 273/2002]

Provided that the payment of such pension or a part thereof may, if His Majesty in Council so directs, be extended for a further period not exceeding 6 months commencing from the expiry of the first mentioned period.

Allowances in respect of dependants of sufferers from Hansen's disease

6. An allowance to be called a "Hansen's disease allowance" shall, whenever the Pensions Officer is satisfied that there is need for such an allowance, be payable at the rate specified in the Schedule to these Regulations, to or for the benefit of the dependant of any person who the Pensions Officer is satisfied —

(a) has attained the age of 15 years;

(b) is suffering from Hansen's disease;

(c) is receiving treatment in any colony or settlement approved by the Director-General of Medical Services for the treatment of Hansen's disease; and

[GN 273/2002]

(d) resided in Brunei Darussalam for a period of at least 10 years preceding the date upon which he commenced to receive treatment in such colony or settlement.

SCHEDULE — *(continued)***Allowance in respect of mentally disordered persons** [S 25/2014]

7. An allowance to be called a “mentally disordered persons allowance” shall, whenever the Pensions Officer is satisfied that there is need for such an allowance, be payable at the rate specified in the Schedule to these Regulations, to, or for the benefit of, a mentally disordered person or his dependants, the mentally disordered person being a person who the Pensions Officer is satisfied —

(a) has attained the age of 15 years;

(b) is a mentally disordered person;

(c) is, under the provisions of the Mental Health Order, 2014 (S 25/2014), either detained in a psychiatric facility or committed to the care of any relative or friend; and

(d) resided in Brunei Darussalam for a period of at least 10 years preceding the date upon which he was detained or committed.

Disability pensions

8. A pension, to be called a “disability pension”, shall be payable at a rate specified in the Schedule to these Regulations to any person who satisfies the Pensions Officer that —

(a) he has attained the age of 15 years;

(b) he is by virtue of disability unable to work;

(c) he has resided in Brunei Darussalam for a period of at least 10 years immediately preceding the date upon which he became eligible for such allowance;

(d) he is likely to be subject to such disability for a considerable period;

(e) he is undergoing medical treatment of a nature approved by the Director-General of Medical Services or any medical officer in the service of the Government, in respect of such disability.

[GN 273/2002]

No benefit until qualified

9. No person shall draw any pension or allowance in respect of any period prior to the date upon which he fulfilled the statutory conditions.

SCHEDULE — *(continued)***Pensions etc. to be subject to certain conditions of identification etc.**

10. Every payment of any pension or allowance payable under these Regulations shall be subject to such conditions relating to —

- (a) the identification of the recipient; and
- (b) the fulfilment of the statutory conditions,

as the Controller shall direct.

Pensions etc. to be payable monthly in arrear

11. Pensions and allowances payable under these Regulations shall, unless the Controller otherwise directs, be payable before the last day of the month for which they are due:

[S 36/2013]

Provided nevertheless that whenever any person ceases to fulfil the statutory conditions relating to any pension or allowance, otherwise than death —

[S 36/2013]

- (a) on or before the fifteenth day of any month, one half of such pension or allowance may be payable hereunder; or
- (b) after the fifteenth day of any month, the whole of such pension or allowance may be payable hereunder.

Admission of claims

12. No payment of any pension or allowance payable under these Regulations shall be made unless and until a valid claim has been established thereto; and no claim shall be admitted in relation to any period in excess of the period of 3 months immediately preceding the date of the making of such claim.

Discretionary powers of His Majesty in Council in exceptional circumstances

13. His Majesty in Council may, in his absolute discretion and without assigning any reason therefor, direct that any pension or allowance payable to any person under these Regulations shall not be payable to such person.

SCHEDULE

(regulations 3, 4, 5, 6, 7 and 8)

PENSIONS AND ALLOWANCES

<i>Pension or allowance</i>	<i>Rate per month</i>
1. Old age pension	\$250
2. (a) Blind, leprosy and persons of unsound mind	\$250
(b) Blind, leprosy and person of unsound mind's dependants —	
(i) in respect of each child under the age of 15 years	\$113
(ii) in respect of each child of the age of 15 years or more	\$188
3. Hansen's disease	\$250
4. Disability pension	\$250

[S 16/2010]