

LAWS OF BRUNEI

REVISED EDITION 1984

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 His Majesty the Sultan and Yang Di-Pertuan in Council may prescribe and for all matters incidental thereto

10 of 1954
11 of 1955
S.44/56
S.88/57
2 of 1959
S.99/59
S.48/81

Commencement: 1st January 1955

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

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

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

“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, step-father, step-mother, 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 relat-

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ing to the adoption of children, or any child adopted in accordance with any system of personal law;

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

(S 38/08)

“Retirement Fund” means “statutory conditions” means the conditions under which, by virtue of the provisions of this Act and the regulations made hereunder, 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 as being applicable to the members of any racial, religious or other community in Brunei 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 the regulations made hereunder.

GN 649/03

and also GN 305/93 Director of Community Development

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

Pensions etc., to be charged on revenues of Brunei

4. There shall be charged on and paid out of the ~~venues of Brunei~~ ^{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 38/08) Retirement Fund.

Pensions, etc., not of right

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

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.

Receipt of pensions, etc., not to affect any other privileges

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

Description of pensions and allowances

(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 of Medical Services;

(d) allowances for the dependants of any lunatic who is, under the provisions of the Lunacy Act, either detained in any mental hospital, or committed to the care of any relative or friend;

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(e) disability pension;

(f) such other pensions and allowances as His Majesty in Council may by regulations made under section 8 of this Act prescribe.

8. (1) The regulations contained in this Act may from time to time be amended, revoked or replaced by regulations made by His Majesty in Council, and all regulations so made shall be published in the *Gazette*.

Regulations relating to certain pensions, etc.

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

(3) Whenever His Majesty in Council 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.

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 —

- (1) a debt due to Government; or
- (2) 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; or
- (b) is declared insolvent by judgment of any competent Court; or
- (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 the provisions of section 11 of this Act, forthwith cease.

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

(a) under paragraph (a) or (b) of subsection (1) of this section, obtains his discharge from bankruptcy or insolvency; or

(b) under paragraph (c) of subsection (1) of this section at any time after conviction receives a free pardon or completes the term of imprisonment to which he has been sentenced; or

(c) under paragraph (d) of subsection (1) of this section 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 of this Act.

11. Where a pension or allowance granted in pursuance of this Act ceases by reason of subsection (1) of section 10 of this Act, it shall be lawful for the Controller, from time to time 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

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

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, of the following, that is to say, 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 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.

(2) For the purpose of subsection (1) of this section residence within Brunei shall include any period —

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

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

(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;

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

such conditions continue to be fulfilled in the case of a person in receipt of such pension or allowance, or whether any person is disqualified for receiving such pension or allowance, shall be decided by the Pensions Officer.

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 Pensions Officer and others to the Controller

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 of this Act may appeal against such order, action or decision to His Majesty in Council by sending by registered post a petition, concisely stating the grounds of appeal, to the Clerk of Council 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.

Appeal from the Controller to His Majesty in Council

(2) The appellant and the Controller may, with the permission of His Majesty in Council, be present while His Majesty in Council is considering the appeal, and be heard thereon.

(3) (a) His Majesty in Council 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.

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

(c) The decision of His Majesty in Council upon any appeal shall be final and shall not be questioned in any Court.

Powers of
Pensions
Officers
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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 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 —

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

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

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

(d) shall 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 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 such failure:

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

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

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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, shall be guilty of an offence: Penalty, imprisonment for 6 months and a fine of \$5,000.

Penalty for false statements, etc.

18. Any certificate purporting to be under the hand or seal of the Director 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.

Medical Officer's certificate of age to be evidence thereof

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 such 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:

Recovery of pensions, etc., incorrectly paid

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 the 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 paragraph (a) of section 7, and also

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

both those pensions shall be payable to that person.

(3) Subject to subsection (2), where any person fulfils the statutory conditions relating to 2 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 any prosecution

21. No prosecution for any offence under section 17 of this Act 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.

Rules

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

(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 of this Act, 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.