

Pensions Act 1980

LAWS OF MALAYSIA

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Act 227

PENSIONS ACT 1980

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2 Laws of Malaysia ACT 227

PENSIONS ACT 1980

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Pensions 3

LAWS OF MALAYSIA

Act 227

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ARRANGEMENT OF SECTIONS

Section

1. Short title, commencement and application

2. Interpretation
3. Pension, etc., not an absolute right
4. Pension, etc., to be charged on the Federal Consolidated Fund
5. Regulations
6. Computation of pension, etc. 6A. Exercise of option
7. Conferment of pensionable status
8. Officers deemed to be pensionable officers
9. Grant of pension, etc.
10. Compulsory retirement
11. Retirement at the instance of the Government
12. Optional retirement 12A. Retirement on being appointed to serve in organization 12B. Monthly contributions to the Consolidated Fund
13. Retirement in the public interest
14. A derivative pension or gratuity where an officer dies in service
15. Derivative pension where an officer dies after retirement
16. Cessation of derivative pension 16A. Cessation of pension in respect of child attaining age of eighteen deemed valid
17. Disability pension 4 Laws of Malaysia ACT 227

Section

18. Dependant's pension
19. Pension, etc., not to be assignable
20. Pension, etc., to cease on bankruptcy
21. Pension, etc., to cease on conviction 21A. Pension, etc., to cease on acquiring citizenship of other country

22. Maximum pension 22A. Lowest pension for full service
23. Suspension of pension
24. Grant of retiring allowance to temporary officer
25. Grant of derivative retiring allowance to temporary officer 25A.
Circumstances in which person to be disqualified from being paid derivative pension or derivative retiring allowance where not resident or ceasing to be resident in Malaysia
26. Payment without probate or letters of administration 26A. Payment of reward for information
27. Amendment of Schedule
28. Repeal and savings SCHEDULE

Pensions 5

LAWS OF MALAYSIA

Act 227

PENSIONS ACT 1980

An Act to provide for the administration of pensions, gratuities and other benefits for officers in the public service and their dependants.

[1 January 1976]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

Short title, commencement and application

1. (1) This Act may be cited as the Pensions Act 1980 and shall be deemed to have come into force on 1 January 1976. (2) This Act shall apply throughout Malaysia in respect of-- (a) officers in the public service who have opted or who are deemed to have opted for any New Scheme;

(b) officers in the public service who were or are appointed under any New

Scheme;

(c) officers in the public service who by virtue of their option are bound by any New Scheme; or

(d) temporary officers in the public service who were appointed prior to 1 January 1976 and who were not given the option to opt for that New Scheme which came into force from that date.

Interpretation

2. In this Act, unless the context otherwise requires-- "child" means a child of a deceased officer--

(a) who is a child under twenty-one years of age and includes-- (i) a posthumous child, a dependent step-child and an illegitimate child of the officer; and

6 Laws of Malaysia ACT 227

(ii) a child adopted by the officer under any written law relating to adoption or under any custom or

usage, on satisfactory proof of such adoption;

and

(b) who is a child of any age and is mentally retarded or physically and permanently incapacitated and is incapable of supporting himself provided that such child is mentally retarded or physically and permanently incapacitated before the child reaches the age of twenty-one years;

"Director General" means the Director General of Public Services; "federal officer" means an officer in the service of the Federal Government;

"last drawn salary" means the last drawn monthly substantive salary or in the case of retirement under section 12A his actual last drawn monthly substantive salary paid to him by the organization whilst on the same terms and conditions of service as in the New Scheme, and includes any pensionable allowance;

"local federal officer" means an officer who is recruited for, or transferred to, service under the Federal Government in Sabah or Sarawak and has not been permanently transferred to service outside Sabah or Sarawak;

"New Scheme" means the revised salaries and terms and conditions of service of

officers in the public service arising from the revision of salaries and terms and conditions of service of such officers made by the Federal Government with effect from 1 January 1976, or from any other subsequent revision made by the Federal Government from time to time;

"officer" means an officer on full-time employment in the public service;

"other public service" means service under a Government set out in the Schedule in respect of officers transferred to public service;

"pensionable officer" means an officer who has been conferred the status of a pensionable officer under section 7 or who is deemed to be a pensionable officer under section 8; Pensions 7

"public service" means--

(a) the Judicial and Legal Service;

(b) the General Public Service of the Federal Government; (c) the Police Force;

(d) the Railway Service;

(e) the Education Service;

(f) the Joint Public Services common to the Federal Government and of one or more of the States;

(g) the Public Service of each State;

(h) the Parliamentary Service; or

(i) such other service as the Yang di-Pertuan Agong may determine to be public service for the purposes of this Act;

"reckonable service" means service prescribed as reckonable service under the regulations;

"regulations" means any regulations made under section 5; "resident in Malaysia" means being habitually resident in Malaysia as evidenced by the person concerned having his sole or principal place of abode in Malaysia and residing therein for such period or periods of time as is not inconsistent with the continuity of residence in Malaysia and as point to durable ties between him and Malaysia;

"state officer" means an officer in the service of the Government of a State; and

"Statutory or Local Authority" means a Statutory or a Local Authority established by any written law.

Pension, etc., not an absolute right

3. (1) No officer shall have an absolute right to compensation for past service or to any pension, gratuity or other benefit under this Act.

(2) Where the Yang di-Pertuan Agong is satisfied that an officer has been guilty of negligence, irregularity or misconduct, the Yang di-Pertuan Agong may reduce or withhold a pension, gratuity or other benefit for which the officer would have been eligible but for the provision of this section.

8 Laws of Malaysia ACT 227

Pension, etc., to be charged on the Federal Consolidated Fund

4. (1) Pension, gratuity or other benefit granted under this Act or regulations made thereunder shall be charged on the Federal Consolidated Fund.

(2) For the purposes of this Act, pension, gratuity or other benefit does not include any cash award granted in lieu of accumulated vacation leave to an officer whose salary is not paid out of the Federal Consolidated Fund.

Regulations

5. (1) The Yang di-Pertuan Agong may make regulations for the purposes of this Act.

(2) Notwithstanding any other written law, regulations made under this section may be given retrospective effect to a date earlier than the commencement of this Act in order to confer a benefit upon, or remove a disability attaching to, any person. Computation of pension, etc.

6. (1) Any pension, gratuity or other benefit granted under this Act shall be computed in accordance with the regulations; provided that, in the case of retirement under paragraph 10(5) (a) or under section 12A, the amount of pension granted shall not be less than one-fifth of the officer's last drawn salary.

(2) For the purpose of subsection (1), an officer who retires before being

confirmed in his second or subsequent appointment, the last drawn salary shall be the last drawn salary of his former appointment in which he had been confirmed had he remained in his former appointment until his retirement.

Exercise of option

6A. (1) An officer appointed on or after the commencement of this section shall, before being confirmed in his appointment, be entitled to opt for the Employees Provident Fund Scheme. (2) The option under subsection (1) shall be made to the appropriate appointing authority in such manner as may be determined by the Director General.

Pensions 9

(3) The exercise of the option by an officer under this section shall take effect on his being confirmed in his appointment and shall thereupon be irrevocable.

(4) Where an officer opts for the Employees Provident Fund Scheme, the provisions of this Act, except this section, shall not apply to such officer.

(5) An officer who opts for the Employees Provident Fund Scheme shall retire from the public service on attaining the age of fifty-six years.

(5A) Subsection (5) shall not apply to an officer who was appointed before 1 October 2001 and had been given an option before such date and had not opted for the compulsory age of retirement of fifty-six years.

(6) The Yang di-Pertuan Agong, in the case of a federal officer or a local federal officer, or the State Authority, in the case of a state officer, may require an officer who opts for the Employees Provident Fund Scheme to retire from the public service in any of the circumstances referred to in paragraphs 10(5) (a), (b), (c), (d), (e) and (f).

(7) In this section "Employees Provident Fund Scheme" refers to a provident fund established under the Employees Provident Fund Act 1991 [Act 452], including an approved fund as defined in that Act.

Conferment of pensionable status

7. A permanent officer may be conferred the status of a pensionable officer if he has--

(a) been confirmed in his present appointment; and (b) completed not less than three years' reckonable service. Officers deemed to be pensionable officers

8. Without prejudice to section 7, the following officers shall be deemed to be pensionable officers:

(a) an officer who has already been emplaced or qualified to be emplaced on the pensionable establishment under 10 Laws of Malaysia ACT 227

the Pensions Ordinance 1951 [Ord. 1 of 1951] prior to 1 July 1977, the Pensions Ordinance 1963 of Sabah [Ord. 3 of 1963] or the Pensions Ordinance of Sarawak [Sarawak Cap. 89] prior to 1 July 1978, as the case may be; (b) a permanent and confirmed officer who dies in service, retires on medical ground or under section 12A before completing ten years' reckonable service; or

(c) a pensionable employee under the Statutory and Local Authorities Pensions Act 1980 [Act 239] or any other written law who is permanently transferred by appointment to the public service.

Grant of pension, etc.

9. (1) The Yang di-Pertuan Agong may grant a pension, gratuity or other benefit to a pensionable officer on--

(a) compulsory retirement under section 10; or

(b) optional retirement under section 12 after completing a period of not less than ten years' reckonable service; or (c) retirement under section 11.

(d) (Deleted by Act A625)

(2) The Yang di-Pertuan Agong may grant a pension, gratuity or other benefit to a pensionable officer if the retirement is under section 12A.

Compulsory retirement

10. (1) Subject to subsections (2), (3) and (4), an officer shall retire from the public service on attaining the age of fifty-six years.

(2) Where an officer attains the age of fifty-six years, and a criminal or disciplinary proceeding which may result in his conviction or dismissal is not concluded, his service shall be deemed to have been extended beyond that age but on no-pay leave until his case is determined.

(3) Where the criminal or disciplinary proceeding under subsection (2) does not result in his conviction or dismissal, he shall retire on attaining the

age of fifty-six years, and the period of service after this age shall not be reckonable service.

Pensions 11

(4) Subsection (1) shall not apply to--

(a) the Clerk to the House of Representatives or the Clerk to the Senate; and

(b) those officers who have retired after the coming into force of this Act but before the publication thereof. (c) (Deleted by Act A1124).

(5) The Yang di-Pertuan Agong, in the case of a federal officer or a local federal officer, or the State Authority, in the case of a state officer, may require any officer to retire from the public service--

(a) where the Director General or the State Secretary, as the case may be, is satisfied on medical evidence that the officer is incapable of discharging the duties of his office, by reason of infirmity of mind or body likely to be permanent;

(b) on the abolition of the office held by him;

(c) for the purpose of facilitating improvement in the organization of the department to which the officer belongs by which greater efficiency or economy may be achieved; (d) on the ground that the officer's employment has been terminated in the public interest;

(e) on the ground that the officer has voluntarily (other than marriage) acquired citizenship of, or exercised rights of citizenship in, or has made a declaration of allegiance to, any other country other than Malaysia or on the ground that the officer has been deprived of his Malaysian citizenship; or

(f) on the ground that the officer had, for the purpose of his appointment to the public service--

(i) made any statement or given any information,

whether orally or in writing, whether on oath or

otherwise; or

(ii) supplied any document,

which was false, erroneous, inaccurate, incomplete, or misleading or likely to

mislead and his appointment to the public service was made partly or wholly in reliance on that statement, information or document:

Provided that retirement under this paragraph shall not be effected unless the officer has been given a reasonable 12 Laws of Malaysia ACT 227

opportunity to make representations thereon to the Yang di-Pertuan Agong or the State Authority, as the case may be.

(6) Paragraph (5) (f) shall apply only to officers appointed to the public service after the commencement of this subsection. (7) The compulsory age of retirement of fifty-six years provided for in subsection (1) shall apply to an officer who is appointed on or after 1 October 2001.

(8) The compulsory age of retirement of fifty-six years provided for in subsection (1) shall not apply to an officer who was appointed before 1 October 2001 and had been given an option before such date and had not opted for the compulsory age of retirement of fifty-six years.

(9) The option for the compulsory age of retirement of fifty-six years exercised by an officer referred to in subsection (8) shall be irrevocable.

Retirement at the instance of the Government

11. Notwithstanding sections 10 and 12, with the consent of the officer--

(a) the Yang di-Pertuan Agong may require a federal officer to retire at any age--

(i) on ground of national interest; or

(ii) in the interest of the public service; and

(b) the State Authority may require a State officer to retire at any age--

(i) with the approval of the Yang di-Pertuan Agong, on ground of national interest; or

(ii) in the interest of the public service.

Optional retirement

12. (1) The Yang di-Pertuan Agong, in the case of an officer other than a state officer, or the State Authority, in the case of a state officer, may, on

the officer's application, consent to the retirement of an officer on or after attaining the age of forty years. Pensions 13

(2) Where an officer who is appointed before the commencement of this section retires under subsection (1), such officer may be granted a pension, only on attaining the age of-- (a) forty-five years for--

(i) a woman officer;

(ii) an officer of the fire service holding the rank of sub-officer and below;

(iii) a police officer below the rank of Assistant Superintendent of Police;

(iv) a prison officer below the rank of Superintendent; and

(v) a male nurse of a mental hospital; or

(b) fifty years for a male officer, other than those officers referred to in subparagraphs (a) (ii) to (v).

(3) Where an officer who is appointed after the commencement of this section retires under subsection (1), such officer may be granted a pension, only on attaining the age of fifty-six years. (3A) An officer who retires under subsection (1) may on his retirement be granted a gratuity, cash award granted in lieu of accumulated vacation leave or other benefit.

(3B) Where an officer referred to in subsection (3) who was appointed before 1 October 2001 and had been given an option before such date had not opted for the compulsory age of retirement of fifty-six years, subsection (3) shall apply to him with the word 'fifty-five' being substituted for the word 'fifty-six'. (4) Where an officer who has retired under subsection (1) dies before attaining forty-five years of age, fifty years of age, fifty-five years of age or fifty-six years of age, as the case may be, the Yang di-Pertuan Agong may forthwith grant to the person prescribed in the regulations a derivative pension of not less than one-fifth of the deceased officer's last drawn salary and a derivative gratuity or a derivative gratuity only.

(5) Subject to section 16, a derivative pension granted in the circumstances of subsection (4) shall be payable for a period not exceeding twelve and a half years from the date immediately following the date of death of the officer; and thereafter the recipient, provided he is resident in Malaysia, shall continue to receive seventy percent of the amount granted.

Retirement on being appointed to serve in organization 12A. (1) Subject to subsections (2), (3) and (4) where a pensionable officer being a woman officer who is below forty-five years of age or being a male officer who is below fifty years of age is appointed by or with the approval of the Government to serve in any organization howsoever formed and whether or not the Government or any State Government has any interest therein, either directly or otherwise, or in any international organization of which the Government is a member, he may be deemed to have retired from the public service on the date of his leaving the public service and such officer, in the event that he dies before attaining forty-five years of age or fifty years of age, as the case may be, shall, for the purposes of section 14, be deemed to have died in service if at the time of his death he was in the service of such organization or any of its subsidiaries or such international organization, or, if he was not then in such service, he had been in such service for a continuous period of not less than five years from the date of his leaving the public service.

(2) Where a pensionable officer being a woman officer who is below forty-five years of age or a male officer who is below fifty years of age, is appointed by or with the approval of the Government to serve in any organization on the same terms and conditions of service as in the New Scheme he may be granted a pension, gratuity or other benefit on attaining the age of fifty-six years if he has served in such organization or any of its subsidiaries for a continuous period of not less than five years from the date of his leaving the public service, and in such case, any period of such service under the same terms and conditions of service as in the New Scheme with the organization or any of its subsidiaries may be reckoned for the purpose of granting the pension, gratuity or other benefit to the officer.

(2A) Where an officer referred to in subsection (2) who was appointed before 1 October 2001 and had been given an option before such date had not opted for the compulsory age of retirement of fifty-six years, subsection (2) shall apply to him with the word 'fifty-five' being substituted for the word 'fifty-six'. (3) In the case of a pensionable officer to whom subsection (2) does not apply, he may be granted a pension, gratuity or other benefit in the case of a woman officer on attaining forty-five years of age or in the case of a male officer fifty years of age, if he has served in the organization or any of its subsidiaries or the international organization to which he was appointed by or with the approval of the Government for a continuous period of not less than five Pensions 15

years from the date of his leaving the public service or until forty-five years of age or fifty years of age, as the case may be, whichever is the earlier.

(4) Notwithstanding subsections (2) and (3) where the service of the officer is terminated by the organization or any of its subsidiaries or the international organization to which he was appointed by or with the approval of the Government on ground of retrenchment or ill health, or where the contract is not renewed in respect of his appointment in the international organization, he may be granted a pension, gratuity or other benefit. Monthly contributions to the Consolidated Fund

12B. The organization to which a pensionable officer is appointed by or with the approval of the Government under subsection 12A(2) shall make monthly contributions to the Consolidated Fund at the rate of seventeen and a half per centum of such officer's monthly salary in respect of each pensionable officer whilst he is on the same terms and conditions of service as in the New Scheme. Retirement in the public interest

13. The Yang di-Pertuan Agong may, if he thinks fit, grant a pension, gratuity or other benefit to an officer who is retired under paragraph 10(5) (d) or paragraph 10(5) (f), but the amount shall not exceed that for which such officer would be eligible had his pension, gratuity or other benefit been calculated based on his actual length of reckonable service.

A derivative pension or gratuity where an officer dies in service

14. (1) Where a pensionable officer dies in service, the Yang di- Pertuan Agong may grant to the person prescribed in the regulations a derivative pension of not less than one-fifth of the deceased officer's last drawn salary and a derivative gratuity or a derivative gratuity only.

(2) Subject to section 16, the derivative pension granted under subsection (1) shall be payable for a period not exceeding twelve and a half years from the date immediately following the date of death of the officer; and thereafter the recipient, provided he is resident in Malaysia, shall continue to receive seventy percent of the amount granted.

16 Laws of Malaysia ACT 227

Derivative pension where an officer dies after retirement

15. (1) Subject to section 16-- (a) where a pensionable officer dies within the period of twelve and a half years from the date of his retirement from the public service, the Yang di-Pertuan Agong may grant to the person prescribed in the regulations a derivative pension equivalent to the amount of pension paid to him for a period not exceeding the difference between the period of twelve and a half years and the retirement period of the deceased officer; and thereafter such derivative pension shall continue to be payable at the rate of

seventy percent of the amount granted; and

(b) where a pensionable officer dies after the period of twelve and half years from the date of his retirement from the public service, the Yang di-Pertuan Agong may grant to the person prescribed in the regulations a derivative pension equivalent to seventy percent of the officer's pension: Provided that any grant of derivative pension after the expiration of the period of twelve and a half years from the date of his retirement shall only be made where the recipient-- (i) in the case of a widow or widower, was married to the deceased officer while such officer was still in service; (ii) in the case of a child or dependent step-child, is a child or dependent step-child of a marriage that had taken place while the officer was still in service;

(iii) in the case of an adopted child, is a child adopted under any written law relating to adoption or under any custom or usage, while the officer was still in service; or (iv) in the case of an illegitimate child, is a child conceived while the officer was still in service,

and is resident in Malaysia.

(2) Where an officer dies after his retirement but during the period of retirement prior to his death his pension was not granted or has ceased under section 20 or 21, subsection (1) shall apply and for this purpose the officer shall be deemed to have received the pension.

Pensions 17

Cessation of derivative pension

16. A derivative pension or a derivative retiring allowance granted under this Act shall cease if the recipient is--

(a) (deleted by Act A1171);

(b) a child, other than a child who is mentally retarded or physically and permanently incapacitated and incapable of supporting himself or a child referred to in paragraph (c), upon marriage or upon attaining the age of twenty- one, whichever is the earlier; or

(c) a child who is receiving education in an institution of higher learning but not beyond education leading to a first degree, upon completing or ceasing to receive such education or upon marriage, whichever is the earlier.

Cessation of pension in respect of child attaining age of eighteen deemed valid

16A. (1) Notwithstanding section 16, where prior to the publication of this Act any payment in respect of a derivative pension or other benefit payable to a child has ceased upon the child attaining the age of eighteen, such cessation and any apportionment of the derivative pension or other benefit to any other dependants subsequent to such cessation shall be deemed to have been properly and validly done.

(2) Where subsection (1) is applicable, but such child is under this Act eligible to be paid a derivative pension or other benefit, such child shall, subject to section 16, be paid the portion of the derivative pension or other benefit due to him as from the publication of this Act.

Disability pension

17. (1) The Yang di-Pertuan Agong may grant, in addition to payments made under section 9 or 24, wherever applicable, a disability pension under the regulations where an officer, other than a contract officer, is required to retire as a result of-- (a) sustaining an injury in the course and arising out of performing his official duty or due to a travel accident; or

(b) contracting a disease to which he is exposed by the nature of his duty.

18 Laws of Malaysia ACT 227

(2) For the purpose of subsection (1), injury or disease means injury or disease which is not due to, aggravated or contributed by negligence or misconduct.

Dependant's pension

18. The Yang di-Pertuan Agong may grant, in addition to derivative pension and derivative gratuity to an officer's dependants, a dependant's pension prescribed in the regulations where-- (a) the officer dies in the circumstances under section 17; and

(b) such death occurs within seven years of the date of sustaining the injury or contracting the disease. Pension, etc., not to be assignable

19. Any pension, gratuity or other benefit granted under this Act shall not be assignable or transferable, or liable to be attached, sequestrated or levied upon in respect of any claim except for the purpose of satisfying--

(a) a debt due to the Federal Government, or the Government of any State or a Statutory or Local Authority; or (b) an order of a court for the payment of

periodical sums of money towards the maintenance of the wife or former wife or minor child, whether legitimate or not, of the officer to whom the pension, gratuity or other benefit has been granted.

Pension, etc., to cease on bankruptcy

20. (1) An officer shall not be granted a pension, gratuity or other benefit if at the date of his retirement from the public service-- (a) he has been adjudged a bankrupt or declared insolvent by a court, whether in Malaysia or elsewhere; and (b) he has not obtained his discharge from such adjudication or declaration.

(2) A pension or other benefit granted under this Act to a person who is subsequently adjudged a bankrupt or declared insolvent by a court, whether in Malaysia or elsewhere, shall cease forthwith. Pensions 19

(3) The Yang di-Pertuan Agong may grant an alimentary allowance to, and for the maintenance or benefit of the pensioner, his wife or child, where a pension, gratuity or other benefit is not granted under subsection (1), or ceases under subsection (2), and the allowance shall be equivalent to the pension, gratuity or other benefit to which the officer or pensioner would have been entitled had he not become a bankrupt or insolvent.

(4) For the purpose of subsection (3), moneys applied for the discharge of the debts of the officer or pensioner shall be regarded as applied for his benefit.

(5) When such a person is discharged from his bankruptcy or insolvency, his pension or other benefit shall be restored to him with effect from the date of such discharge.

Pension, etc., to cease on conviction

21. (1) Subject to subsection (2), where any person to whom a pension or other benefit has been granted under this Act is sentenced to death or to any term of imprisonment by a court, such pension or other benefit shall cease forthwith.

(2) The pension or other benefit under subsection (1) shall be restored with retrospective effect in the case of a person who after conviction receives a free pardon.

(3) Where a pension or other benefit ceases under subsection (1), the Yang di-Pertuan Agong may grant an alimentary allowance equivalent to the whole or any part of such moneys to which the pensioner would have been entitled by way of

pension or other benefit as he thinks proper to the pensioner's wife or children for their maintenance and benefit and, after the expiration of his sentence, to such pensioner himself.

Pension, etc., to cease on acquiring citizenship of other country 21A. (1) If a person who has been granted a pension or other benefit under this Act has voluntarily (other than marriage) acquired citizenship of, or exercised rights of citizenship in, or has made a declaration of allegiance to, any other country other than Malaysia or has been deprived of his Malaysian citizenship, such pension or other benefit shall cease forthwith.

20 Laws of Malaysia ACT 227

(2) Where pension or other benefit ceases under subsection (1), no pension or other benefit shall be granted to the dependants. Maximum pension

22. (1) A service pension granted to an officer under this Act shall not exceed half of his last drawn salary.

(2) Where an officer has been or is granted a pension in respect of other public service, he may be granted the full pension for which he is eligible in respect of his public service, but no such officer shall draw from the Federal Consolidated Fund the amount of pension which, when added to the amount of pension drawn in respect of other public service, exceeds six-tenths of his last drawn salary.

(3) For the purpose of subsection (2), the pension of an officer in respect of his other public service means the amount of pension which he might have had if he had elected not to be paid a commuted pension and reduced pension.

(4) For the purpose of this section, any benefits granted under section 17 or 18 shall not be taken into account. Lowest pension for full service

22A. In the case of a pension which has been calculated on the basis of reckonable service of not less than twenty-five years, the amount payable under this Act shall not be less than one hundred and eighty ringgit per month or any such amount as may be determined by the Yang di-Pertuan Agong from time to time by notification in the Gazette.

Suspension of pension

23. (1) Where an officer to whom a pension has been granted under this Act or under any written law is reappointed as a permanent officer in the public service, the Yang di-Pertuan Agong may suspend the pension during the period

of his reappointment as a permanent officer.

(2) Subject to subsection (1), where an officer has retired under subparagraph 11(a) (i) or 11(b) (i) and within the period of five years thereof involves himself in any activity which may be in Pensions 21

conflict with the purpose of his retirement, the Yang di-Pertuan Agong may suspend his pension until he reaches the age of fifty- six or completes a period of five years retirement, whichever is the earlier.

(2A) Where an officer referred to in subsection (2) who was reappointed before 1 October 2001 and had been given an option before such date had not opted for the compulsory age of retirement of fifty-six years, subsection (2) shall apply to him with the word 'fifty-five' being substituted for the word 'fifty-six'. (3) In respect of retirement under subparagraph 11(b) (i), subsection (2) shall apply only to officers appointed to the public service after the commencement of this subsection.

Grant of retiring allowance to temporary officer

24. On the retirement under section 10, 11 or 12 of a temporary officer who continues to serve under the New Scheme, the Yang di-Pertuan Agong may grant a retiring allowance and gratuity equivalent to three-quarters of the pension and gratuity respectively normally payable to a pensionable officer who retires under the same circumstances under the Act if the temporary officer--
(a) was continually in service with the Federal Government or a State Government prior to the 1 January 1976 and up to the date of his retirement after the 1 January 1976; (b) has completed a period of not less than ten years' reckonable service with the Federal Government or a State Government; and

(c) was on the date of his appointment not liable to contribute to the Employees Provident Fund or other provident fund. Grant of derivative retiring allowance to temporary officer

25. Subject to section 16-- (a) where a temporary officer dies in service and would have become eligible for retiring allowance and gratuity under section 24 had he retired on the date of his death, the Yang di-Pertuan Agong may grant to the person prescribed in the regulations--

(i) a derivative gratuity equivalent to the officers gratuity; and

22 Laws of Malaysia ACT 227

(ii) a derivative retiring allowance equivalent to the officer's retiring

allowance, for a period not

exceeding twelve and a half years from the date

immediately following the date of death of the officer, and thereafter, provided the recipient is resident in Malaysia, seventy percent of such allowance granted; (b) where a temporary officer who is receiving a retiring allowance dies within the period of twelve and a half years from the date of his retirement, a derivative retiring allowance equivalent to the officer's retiring allowance may be granted to the person prescribed in the regulations for a period not exceeding the difference between the period of twelve and a half years and the retirement period of the deceased officer; and thereafter such derivative retiring allowance shall continue to be payable at the rate of seventy percent of the amount granted;

(c) where a temporary officer who has been receiving retiring allowance dies after the period of twelve and a half years from the date of his retirement, a derivative retiring allowance equivalent to seventy percent of the deceased officer's retiring allowance may be granted to the person prescribed in the regulations:

Provided that in respect of the recipient referred to in paragraph (b) or (c), any grant of derivative retiring allowance after the expiration of the period of twelve and a half years shall only be made where the recipient--

(i) in the case of a widow or widower, was married to the deceased officer while the officer was still in service;

(ii) in the case of a child or dependent step-child, is a child or dependent step-child of a marriage that

had taken place while the officer was still in service; (iii) in the case of an adopted child, is a child adopted under any written law relating to adoption or under any custom or usage, while the officer was still in service; or

(iv) in the case of an illegitimate child, is a child conceived while the officer was still in service,

and is resident in Malaysia.

Pensions 23

Circumstances in which person to be disqualified from being paid derivative

pension or derivative retiring allowance where not resident or ceasing to be resident in Malaysia 25A. (1) Where any person prescribed in the regulations who is in receipt of or would otherwise be entitled to receive any derivative pension or derivative retiring allowance, as the case may be-- (a) under subsection 14(2) or subparagraph 25(a)(ii), after the expiry of the period not exceeding twelve and a half years from the date immediately following the date of death of the officer in service;

(b) under paragraph 15(1)(a) or 25(b), after the expiry of the period which is the difference between the period of twelve and a half years from the date of retirement of the officer and the retirement period of the officer where the officer dies within the period of twelve and a half years from the date of retirement; or

(c) under paragraph 15(1)(b) or 25(c), on the death of the officer in retirement where the officer dies after the period of twelve and a half years from the date of retirement, is not or ceases to be resident in Malaysia, he shall not be paid or be entitled to be paid any derivative pension or derivative retiring allowance under any of the sections specified in paragraph (a), (b) or (c) after the expiry of any of the periods referred to in paragraph (a) or (b) or on the occurrence of the event referred to in paragraph (c); and he shall not, in the event of his becoming resident or resuming residence in Malaysia, be paid or be entitled to be paid such derivative pension or derivative retiring allowance. (2) Notwithstanding subsection (1), the Minister, or any officer authorized by him in writing so to do, may generally or specially exempt any person or class of persons for such reason as may be specified in the exemption from complying with the requirement of this section for that person or class of persons to be resident in Malaysia in order to qualify for any pension or other benefit under this Act.

Payment without probate or letters of administration

26. (1) Notwithstanding any written law to the contrary, where a person to whom any payment could be made under this Act and the regulations made thereunder dies before the payment is made, the amount remaining unpaid may be paid to his dependants without probate or letters of administration.

24 Laws of Malaysia ACT 227

(2) Where an officer dies in service, any cash award payable in lieu of accumulated leave granted under the regulations may be paid to his dependants without probate or letters of administration. (3) Where any payment is made in good faith under this section and in accordance with the provisions of this Act and of the regulations made thereunder, such payment shall constitute a

full and proper discharge of all liability and no action, suit or proceedings for such payment or calling such payment in question be brought or shall lie against the Government or any of its officers or servants. (4) For the purpose of this section--

(a) "dependant" means--

(i) a widow of a deceased;

(ii) a widower of a deceased;

(iii) a child of a deceased; or

(iv) the mother of a deceased officer, or if his mother is not living, his dependent father;

(b) "unpaid" means unpaid by the Government or undrawn by the person.

Payment of reward for information

26A. (1) The Director General may order the payment of such reward as he deems fit to any member of the public for information given leading to the conviction of--

(a) cases of cheating in order to enjoy the pension and other benefit conferred under this Act; or

(b) offences under the regulations made under this Act. (2) Any reward paid under this Act shall be charged on the Federal Consolidated Fund.

Amendment of Schedule

27. The Yang di-Pertuan Agong may by notification in the Gazette declare any service to be other public service in the Schedule for the purposes of this Act.

Pensions 25

Repeal and savings

28. (1) Subject to subsection (2), the Pensions Ordinance 1951 as applicable to those who opted for or were appointed under the New Scheme is repealed.

(2) The Pensions Ordinance 1951, the Pensions Ordinance 1963 of Sabah and the

Pensions Ordinance of Sarawak, shall continue to apply to officers who do not opt for or are not appointed under the New Scheme.

SCHEDULE

[Section 2]

Government of Brunei

Government of Hong Kong

Government of Singapore

26 Laws of Malaysia ACT 227

LAWS OF MALAYSIA

Act 227

PENSIONS ACT 1980

LIST OF AMENDMENTS

Amending law Short title In force from

Act A495 Pensions (Amendment) 01-07-1980

Act 1980

Act A568 Pensions Adjustment 01-07-1980

(Amendment) Act 1983

Act A625 Pensions (Amendment) 13-09-1985

Act 1985

Act A644 Pensions (Amendment) 16-05-1986

Act 1986 except ss. 3, 7,

12: 01-01-1976;

ss. 9, 11:

01-07-1980

Act A793 Pensions (Amendment) 12-04-1991

Act 1991

Act A823 Pensions (Amendment) s. 2: 01-06-1991;

Act 1992 s. 3: 01-01-1992;

s. 4: 12-04-1991

Act A1124 Pensions (Amendment) 01-10-2001

Act 2001

Act A1171 Pensions (Amendment) 01-01-2002

Act 2002

Pensions 27

LAWS OF MALAYSIA

Act 227

PENSIONS ACT 1980

LIST OF SECTIONS AMENDED

Section Amending authority In force from

1 Act A644 16-05-1986

2 Act A495 01-07-1980

Act A568 01-07-1980

Act A625 13-09-1985

Act A644 16-05-1986

6 Act A495 01-07-1980

Act A625 13-09-1985

6A Act A793 12-04-1991

Act A823 01-06-1991

Act A1124 01-10-2001

7 Act A823 01-01-1992

8 Act A625 13-09-1982

Act A793 12-04-1991

9 Act A495 01-07-1980

Act A625 13-09-1985

Act A644 16-05-1986

10 Act A644 16-05-1986

Act A793 12-04-1991

Act A1124 01-01-2001

11 Act A644 01-01-1976

12 Act A793 12-04-1991

Act A823 12-04-1991

Act A1124 01-10-2001

12A Act A495 01-07-1980

Act A625 13-09-1985

Act A644 16-05-1986

Act A1124 01-10-2001

12B Act A625 13-09-1985

13 Act A793 12-04-1991

28 Laws of Malaysia ACT 227

14 Act A495 01-07-1990

15 Act A495 01-07-1980

Act A644 01-07-1980

16 Act A495 01-07-1980

Act A1171 01-01-2002

16A Act A495 01-07-1980

21A Act A644 16-05-1986

22A Act A495 01-07-1980

23 Act A793 12-04-1991

Act A1124 01-10-2001

25 Act A495 01-07-1980

Act A644 01-07-1980

25A Act A568 01-07-1980

26 Act A644 01-01-1976

26A Act A644 16-05-1986

DICETAK OLEH

PERCETAKAN NASIONAL MALAYSIA BERHAD,

KUALA LUMPUR

BAGI PIHAK DAN DENGAN PERINTAH KERAJAAN MALAYSIA

Section Amending authority In force from