

Statutory and Local Authorities Pensions Act 1980

Statutory and Local Authorities Pensions 1

LAWS OF MALAYSIA

REPRINT

Act 239

STATUTORY AND LOCAL

AUTHORITIES PENSIONS

ACT 1980

Incorporating all amendments up to 1 January 2006 PUBLISHED BY

THE COMMISSIONER OF LAW REVISION, MALAYSIA

UNDER THE AUTHORITY OF THE REVISION OF LAWS ACT 1968 IN COLLABORATION WITH

PERCETAKAN NASIONAL MALAYSIA BHD

2006

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STATUTORY AND LOCAL AUTHORITIES

PENSIONS ACT 1980

Date of Royal Assent 31 July 1980 Date of publication
in the Gazette 7 August 1980 PREVIOUS REPRINT

First Reprint 2001

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PENSIONS ACT 1980

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LAWS OF MALAYSIA

Act 239

STATUTORY AND LOCAL AUTHORITIES

PENSIONS ACT 1980

An Act to provide for the administration of pensions, gratuities and other benefits for employees in the statutory and local authorities and their dependants pursuant to the revision of salaries and terms and conditions of service of such employees made by the Government with effect from 1 January 1976.

[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 Statutory and Local Authorities 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 employees in the statutory and local authorities-- (a) who have opted or who are deemed to have opted for the New Scheme;

(b) who were appointed under the New Scheme; or

(c) who by virtue of their option were bound by the New Scheme.

Interpretation

2. In this Act, unless the context otherwise requires-- "appropriate authority" means the board or management of a statutory or local authority;

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"employee" means a person on full time employment of a statutory or local authority;

"Employees Provident Fund" means a provident fund established under the Employees Provident Fund Act 1991 [Act 452], including an approved fund as defined in that Act;

"Employees Provident Fund Scheme" means a scheme under which an employee ceases to be eligible to be conferred the status of a pensionable employee or

ceases to be a pensionable employee and is instead required to contribute, together with his employer, to the Employees Provident Fund;

"employer" means a statutory or local authority;

"last drawn salary" means the actual last drawn monthly substantive salary paid to an employee before his retirement or death or in the case of retirement under subsection 13(2), his actual last drawn monthly substantive salary paid to him by the organization whilst he is on the same terms and conditions of service as in the New Scheme; provided that in respect of an employee who is receiving any pensionable allowance, such pensionable allowance shall form part of his last drawn salary;

"Minister" means the Minister charged with the responsibility for pensions;

"New Scheme" means the revised salaries and terms and conditions of service of employees in the statutory and local authorities arising from the revision of salaries and terms and conditions of service of such employees made by the Government with effect from 1 January 1976, or from any other subsequent revision or approved made by the Government from time to time;

"Pension And Employees Provident Fund Scheme" means a scheme under which an employee continues to be a pensionable employee and is required to contribute, upon his option taking effect and by virtue of his option, to the Employees Provident Fund;

"pensionable employee" means an employee who has been conferred pensionable status under section 6 or deemed to have been conferred pensionable status under section 7; Statutory and Local Authorities Pensions 7

"pensions authority" means the Director General of Public Services or any officer authorized by him in writing to act on his behalf; "reckonable service" means service prescribed as reckonable service under the regulations;

"regulations" means regulations made under section 28; "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;

"salary" means a monthly salary including any pensionable allowance payable in accordance with the salary scales of the New Scheme;

"service" means service under the Government, any State Government, or in any statutory or local authority; and "statutory or local authority" means a statutory or local authority within the purview of the New Scheme.

Pension, etc., not an absolute right

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

(2) Where it is established to the satisfaction of the Minister by an appropriate authority that an employee has been guilty of negligence, irregularity or misconduct, the Minister may reduce or withhold the pension, gratuity or other benefit for which such employee would be eligible but for this section.

Pensions, etc., charged on the Consolidated Fund

4. (1) Pensions, gratuities and other benefits granted under this Act shall be charged on the Consolidated Fund from 1 January

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(2) Payment of any pension, gratuity or other benefit granted under this Act up to 31 December 1980 shall be made from the Fund established under the Statutory and Local Authorities Superannuation Fund Act 1977 [Act 185].

Computation of pensions, etc.

5. (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 13, the amount of pension granted shall not be less than one-fifth of the employee's last drawn salary.

(2) For the purpose of subsection (1), the last drawn salary of an employee who retires before being confirmed in his second or subsequent appointment 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.

Conferment of pensionable status

6. The pensions authority may confer a permanent employee the status of a pensionable employee if he has--

(a) been confirmed in his present appointment; and (b) completed not less than three years' reckonable service. Exercise of option

6A. (1) An employee 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 pensions authority.

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

(4) Where an employee opts for the Employees Provident Fund Scheme, the provisions of this Act, except this section and section 26, shall not apply to such employee.

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(5) An employee who opts for the Employees Provident Fund Scheme shall retire from the service of a statutory or local authority on attaining the age of fifty-six years.

(5A) Subsection (5) shall not apply to an employee 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) An appropriate authority may, with the consent of the pensions authority, require an employee who opts for the Employees Provident Fund Scheme to retire from the service of a statutory or local authority in any circumstances referred to in paragraphs 10(5) (a), (b), (c), (d), (e) and (f).

Pensionable employee may opt for the Employees Provident Fund Scheme

6B. (1) An employee--

(a) who has been conferred the status of a pensionable employee under section 6 or is deemed to be a pensionable employee under paragraph 7(a), (b) or (c); or

(b) who was appointed before 12 April 1991 and has not been conferred the status of a pensionable employee, may 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 approved by the pensions

authority.

(3) The exercise of the option by an employee under this section shall take effect on the option being accepted by the appropriate appointing authority and shall thereupon be irrevocable. (4) A pensionable employee shall cease to be a pensionable employee upon his option taking effect.

(5) Subject to subsection (6), the provisions of this Act, and in particular subsection 8(1), shall cease to apply to a pensionable employee upon his option taking effect.

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(6) Subsections 6A(5) and (6) and sections 6C and 6D shall apply to an employee who opts for the Employees Provident Fund Scheme under this section.

Retrospective contributions to the Employees Provident Fund 6C. An employer shall make contributions, in respect of each pensionable employee whose option has taken effect, to the Employees Provident Fund at the rate of seventeen and a half per centum of the employee's monthly salary for each month in the period commencing from the date the employee becomes a pensionable employee under section 6 or section 7 and ending on the date he ceases to be a pensionable employee under section 6B. Employer may offer Employees Provident Fund Scheme 6D. For the purpose of this Act, it shall be lawful for an employer to offer to an employee an option to opt for the Employees Provident Fund Scheme under section 6B.

Pensionable employee may opt for Pension And Employees Provident Fund Scheme

6E. (1) An employee, who has been conferred the status of a pensionable employee under section 6 or is deemed to be a pensionable employee under paragraph 7(a), (b) or (c), may opt for the Pension And Employees Provident Fund Scheme.

(2) The option under subsection (1) shall be made to the appropriate appointing authority in such manner as may be approved by the pensions authority.

(3) The exercise of the option by an employee under this section shall take effect on the option being accepted by the appropriate appointing authority and shall thereupon be irrevocable. (4) A pensionable employee shall continue to be a pensionable employee upon his option taking effect, but his service after his option takes effect shall not be taken into account for the purpose of computing his reckonable service.

Employer may offer scheme under section 6E

6F. For the purposes of this Act, it shall be lawful for an employer to offer to an employee an option referred to in section 6E. Continued application of this Act and application of Act 452 6G. (1) Subject to subsection 6E(4), the provisions of this Act, except subsection 6A(4), sections 6B, 6C, 6D and subsection 8(1), shall continue to apply to, and the Employees Provident Fund Act 1991 shall apply to, a pensionable employee who opts for the Pension And Employees Provident Fund Scheme under subsection 6E(1).

(2) For the purposes of this Act, where a pensionable employee opts for the Pension And Employees Provident Fund Scheme under subsection 6E(1), he may, upon his retirement under section 10, 11, 12 or 13 from the service of the statutory or local authority, be granted a pension, gratuity or other benefit based on his reckonable service in the statutory or local authority, computed in accordance with the regulations.

(3) Where a pensionable employee who opts for the Pension And Employees Provident Fund Scheme under subsection 6E(1)— (a) dies in the service of the statutory or local authority, the employee shall, for the purposes of section 15, be deemed to have died in service; or

(b) marries whilst in the service of the statutory or local authority, his marriage shall, for the purposes of section 16, be deemed to be a marriage that had taken place while the employee was still in service.

Employees deemed to be pensionable employees

7. Without prejudice to section 6, the following employees shall be deemed to be pensionable employees:

(a) an employee who has already been employed or qualified to be employed on the pensionable establishment under the Statutory and Local Authorities Superannuation Fund Act 1977 prior to 1 July 1977 in the case of an employee in Peninsular Malaysia or 1 July 1978 in the case of an employee in Sabah or Sarawak;

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(b) an employee who has been conferred the status of a pensionable employee by the appropriate authority before the publication of this Act;

(c) a pensionable officer under the Pensions Act 1980 [Act 227] or any other written law and who is permanently transferred by appointment to a statutory or local authority; and

(d) a permanent and confirmed employee who dies in service, retires on medical grounds or under section 13 before completing ten years' reckonable service:

Provided that where an employee has been found to have been wrongly conferred the status of a pensionable employee by the appropriate authority, the pensions authority may direct the appropriate authority to revoke such conferment and thereafter the pensions authority shall be responsible for the conferment of pensionable status on the employee under section 6.

Contributions

8. (1) An employer shall make monthly contributions to the Pensions Trust Fund established under the Pensions Trust Fund Act 1991 [Act 454] at the rate of seventeen and a half per centum of the employee's monthly salary in respect of each pensionable employee and such rate shall take effect from 1 January 1981.

(1A) The organization to which a pensionable employee is appointed by or with the approval of the Government under subsection 13(2) shall make monthly contributions to the Pensions Trust Fund established under the Pensions Trust Fund Act 1991 at the rate of seventeen and half per centum of such employee's monthly salary in respect of each pensionable employee whilst he is on the same terms and conditions of service as in the New Scheme. (2) Notwithstanding subsection (1), all monthly contributions by an employer up to 31 December 1980 shall be paid into the Fund established under the Statutory and Local Authorities Superannuation Fund Act 1977 and upon the winding up of the Fund, all the contributions and income thereof, less any payments made in respect of pensions, gratuities or benefits granted under this Act, shall be transferred to the Consolidated Fund. Statutory and Local Authorities Pensions 13

(3) Notwithstanding subsection (1), all contributions made by an employer in respect of each pensionable employee at the rate set out in the Second Schedule of the Statutory and Local Authorities Superannuation Fund Act 1977 up to 31 December 1980 shall be deemed to have been properly made.

(4) Where the amount of monthly contributions which an employer is liable to pay in respect of all pensionable employees is not paid within the period prescribed in the regulations, the employer shall be liable to pay interest on such amount at the rate of half per centum in respect of each month or part of a month after the expiration of such period during which such amount remains unpaid except that interest shall only be collected for arrears incurred after 1 January 1981.

(5) The Minister may, with the concurrence of the Minister of Finance, by

order amend the rate under subsections (1) and (4). (6) The Minister of Finance may exempt interest which is liable to be paid under subsection (4) by the employer if he is satisfied that the delay is not due to a wilful act or is due to an act which is beyond the control of the employer.

Grant of pensions, etc.

9. (1) A pensionable employee may be granted a pension, gratuity or other benefit on--

(a) compulsory retirement under section 10;

(b) retirement under section 11; or

(c) optional retirement under section 12 after completing a period of not less than ten years' reckonable service. (2) A pensionable employee may be granted a pension, gratuity or other benefit if the retirement is under section 13.

Compulsory retirement

10. (1) Subject to subsections (3) and (4), an employee shall retire from the service of a statutory or local authority on attaining the age of fifty-six years.

(2) (Deleted by Act A1125)

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

(4) Where the criminal or disciplinary proceeding under subsection (3) 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 regarded as reckonable service. (5) An appropriate authority may, with the consent of the pensions authority, require any employee to retire from service in a statutory or local authority--

(a) where the pensions authority is satisfied on medical evidence that the employee 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 statutory or local authority to which the employee belongs by which greater efficiency or economy may be achieved;

(d) on the ground that the employee's employment has been terminated in the public interest;

(e) on the ground that the employee 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 employee has been deprived of his Malaysian citizenship; or

(f) on the ground that the employee had, for the purpose of his appointment to the service of a statutory or local authority--

(i) made any statement or given any information,

whether orally or in writing, whether on oath or

otherwise; or

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(ii) supplied any document,

which was false, erroneous, inaccurate, incomplete, or misleading or likely to mislead, and his appointment into the service of a statutory or local authority 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 employee has been given a reasonable opportunity to make representations thereon to the said appropriate authority.

(6) Paragraph (5) (f) shall apply only to employees appointed to the service of a statutory or local authority 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 employee 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 employee 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 employee referred to in subsection (8) shall be irrevocable.

Retirement at the instance of the Minister

11. Notwithstanding sections 10 and 12, with the consent of the employee, the Minister may require an employee to retire at any age--

(a) on grounds of national interest; or

(b) in the interest of the service of the statutory or local authority.

Optional retirement

12. (1) An appropriate authority may, with the approval of the pensions authority on the employee's application, consent to the retirement of an employee on or after attaining the age of forty years.

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

(i) a female employee; and

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

(b) fifty years for a male employee, other than an employee referred to in subparagraph (a) (ii).

(3) Where an employee who is appointed after the commencement of this section retires under subsection (1), such employee may be granted a pension only on attaining the age of fifty-six years. (3A) An employee who retires under subsection (1) may on his retirement be granted a gratuity or other benefit. (3B) Where an employee 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 employee 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 Minister may forthwith

grant to the person prescribed in the regulations a derivative pension of not less than one-fifth of the deceased employee's last drawn salary and a derivative gratuity or a derivative gratuity only.

(5) Subject to section 17, 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 employee; and thereafter the recipient, provided he is a resident in Malaysia, shall continue to receive seventy percent of the amount granted.

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Retirement on being appointed to serve in organization

13. (1) Subject to subsections (2), (3) and (4) where a pensionable employee who is below forty-five years of age in the case of a female employee or fifty years of age in the case of a male employee 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 service of the statutory or local authority on the date of his leaving the authority, and such employee, in the event that he dies before attaining the age of fifty years or forty-five years, as the case may be, shall for the purposes of section 15, 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 service of the statutory or local authority.

(2) Where a pensionable employee who is below the age of forty-five years in the case of a female employee and fifty years in the case of a male employee is appointed by or with the approval of the Government to serve in any organization on or after 17 March 1986 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 service of the statutory or local authority, 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 employee.

(2A) Where an employee 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'. 18 Laws of Malaysia ACT 239

(3) In the case of a pensionable employee to whom subsection (2) does not apply, he may be granted a pension, gratuity or other benefit on attaining the age of forty-five years in the case of a female employee or fifty years in the case of a male employee 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 years from the date of his leaving the service of the statutory or local authority or until the age of forty-five years or fifty years, as the case may be, whichever is the earlier. (4) Notwithstanding the provisions of subsections (2) and (3) where the service of the employee 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 grounds 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. Retirement in the public interest

14. The Minister may, if he thinks fit, grant a pension, gratuity or other benefit to an employee who is retired under paragraph 10(5) (d) or (f), but the amount shall not exceed that for which such employee 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 employee dies in service

15. (1) Where a pensionable employee dies in service, the Minister may grant to the person prescribed in the regulations a derivative pension of not less than one-fifth of the deceased employee's last drawn salary and a derivative gratuity or a derivative gratuity only. (2) Subject to section 17, 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 employee, and thereafter the recipient, provided he is resident in Malaysia, shall continue to receive seventy percent of the amount granted.

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Derivative pension when an employee dies after retirement

16. (1) Subject to section 17-- (a) where a pensionable employee dies within

the period of twelve and a half years from the date of his retirement the Minister 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 employee; and thereafter such derivative pension shall continue to be payable at the rate of seventy per centum of the amount granted; and

(b) where a pensionable employee dies after twelve and a half years from the date of his retirement the Minister may grant to the person prescribed in the regulations a derivative pension equivalent to seventy per centum of the employee'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 employee while the employee 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 employee 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 employee was still in service; or

(iv) in the case of an illegitimate child, is a child conceived while the employee was still in service, and is resident in Malaysia.

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(2) Where a pensionable employee dies after his retirement but during the period of retirement prior to his death his pension was not granted or has ceased under section 22 or 23, subsection (1) shall apply and for this purpose the employee shall be deemed to have received the pension.

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 16A. (1) Subject to section 17, 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 15(2), after the expiry of the period not exceeding twelve and a half years from the date immediately following the date of death of the employee in service; (b) under paragraph 16(1) (a), 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 employee and the retirement period of the employee where the employee dies within the period of twelve and a half years from the date of retirement; or

(c) under paragraph 16(1) (b), on or after the death of the employee in retirement where the employee 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.

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Cessation of derivative pension

17. A derivative pension granted under this Act shall cease if the recipient is--

(a) (Deleted by Act A1172);

(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

18. (1) Notwithstanding section 17, 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 the 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 17, be paid the portion of the derivative pension or other benefit due to him as from the publication of this Act.

Disability pension

19. (1) In addition to payments under section 9, the Minister may grant a disability pension under the regulations where an employee, other than a contract employee, is required to retire as a result of-- (a) sustaining an injury in the course and arising out of performance of 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.

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

Dependant's pension

20. In addition to derivative pension and derivative gratuity, the Minister may grant to an employee's dependants a dependent's pension prescribed in the regulations where--

(a) the employee dies in the circumstances under section 19; 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

21. 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 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 child, whether legitimate or not, of the employee to whom the pension, gratuity or other benefit has been granted.

Pension, etc., to cease on bankruptcy

22. (1) An employee shall not be granted a pension, gratuity or other benefit if at the date of his retirement from service in a statutory or local authority--

(a) he has been adjudged a bankrupt or declared insolvent by a court, whether in Malaysia or elsewhere; and (b) he has not obtained a 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. Statutory and Local Authorities Pensions 23

(3) The Minister may grant an alimentary allowance to, and for the maintenance or benefit of, the employee or 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 employee 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 employee 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

23. (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 Minister 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 the pensioner himself.

Pension, etc., to cease on acquiring citizenship of other country 23A. (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.

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

24. A pension granted under section 9, 15 or 16 shall not exceed one-half of the employee's last drawn salary.

Lowest pension for full service

25. 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 Minister from time to time by notification in the Gazette. Suspension of pension

26. (1) Where an employee to whom a pension has been granted under this Act or under any written law is reappointed as a permanent employee, the Minister may suspend the pension during the period of his reappointment.

(2) Subject to subsection (1), where an employee has retired under paragraph 11(a) and within a period of five years thereof such employee involves himself in any activity which may be in conflict with the purpose of his retirement,

the Minister may suspend his pension until he reaches the age of fifty-six years or completes a period of five years' retirement, whichever is the earlier. (2A) Where an employee 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'. Payment without probate or letters of administration

27. (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.

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(2) 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. (3) 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 employee, or if his mother is not living, his dependent father;

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

Regulations

28. The Minister may make regulations for the purposes of this Act, but such regulations shall not provide for any pension, gratuity or other benefit which is more favourable than the pension, gratuity or other benefit granted in accordance with the regulations made under the Pensions Act 1980.

Previous actions

29. Acts of any person or authority on behalf of the pensions authority

pending the promulgation of this Act shall be deemed to have been properly done.

Payment of reward for information

30. (1) The pension authority may order the payment of such reward as it 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. 26 Laws of Malaysia ACT 239

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

Winding up of pension scheme

31. (1) The fund of a pension scheme of a statutory or local authority under the New Scheme shall be wound up on such date as the Minister of Finance may, in each particular case by notification in the Gazette appoint, and upon winding up of such fund all assets shall be transferred to, and the liabilities charged on the Federal Consolidated Fund.

(2) Notwithstanding any written law to the contrary, upon the winding up of the fund of the pension scheme of a statutory or local authority, the pension authority shall exercise the powers and perform the duties of the appropriate authority of such scheme. (3) Nothing in this section shall be deemed to diminish the amount of pension, gratuity or other benefit to which an employee would have been eligible if not for this section. Statutory and Local Authorities Pensions 27

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Act A619 Statutory and Local Authorities 01-06-1985 Pensions (Amendment) Act 1985

Act A645 Statutory and Local Authorities 16-05-1986; Pensions (Amendment) Act 1986 except ss. 3,

8 and 10:

01-01-1976;

s. 6:

01-07-1980;

s. 5: 31-05-1985

Act A794 Statutory and Local Authorities 12-04-1991 Pensions (Amendment) Act 1991

Act A824 Statutory and Local Authorities s. 2: 01-01-1992; Pensions (Amendment) Act 1992 s. 3 and 4:

01-06-1991;

s. 5: 12-04-1991;

s. 6: 01-06-1985

Act A904 Statutory and Local Authorities 01-01-1992 Pensions (Amendment) Act 1994

Act A986 Statutory and Local Authorities 31-01-1997 Pensions (Amendment) Act 1997

Act A1006 Statutory and Local Authorities 01-12-1997 Pensions (Amendment) (No. 2)

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Act A1125 Statutory and Local Authorities 01-10-2001 Pensions (Amendment) Act 2001

Act A1172 Statutory and Local Authorities 01-01-2002 Pensions (Amendment) Act 2002

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