

PENSIONS ACT

Act 90 of 1951 – 1 January 1952

Act 19 of 1954

Act 5 of 1976

ARRANGEMENT OF SECTIONS

SECTION

- | | |
|--|---|
| 1. Short title | 13. Pension to cease on bankruptcy |
| 2. Interpretation | 14. Pension may cease on conviction |
| 3. Pension regulations | 15. Pension may cease on certain appointments |
| 4. Pensions to be charged on Consolidated Fund | 16. Gratuity and pension where an officer or pensioner dies |
| 4A. Pension contribution | 16A. Gratuity on death of officer transferred to approved service |
| 5. Pensions not of right | 16B. Overpayment made to pensioner |
| 6. Grant of pensions | 17. Pension where officer is killed on duty |
| 6A. Pension to officers in approved service | 18. Public Pensions Defined Contribution Pension Scheme |
| 6B. Deferred pension where an officer retires at the age of 45 | 19. Public Pensions Advisory Committee |
| 6C. Portable pension to officers leaving public service | 20. Administration of funds and assets of individual accounts |
| 7. Termination of employment in interest of service | 21. Contribution to individual account |
| 8. Compulsory retirement | 22. Benefits of participants leaving service |
| 9. Maximum pension | 23. Payment of costs and benefits |
| 10. Liability to take further employment | FIRST SCHEDULE |
| 11. Suspension of pension on re-employment | SECOND SCHEDULE |
| 12. Pension not to be assignable | THIRD SCHEDULE |

PENSIONS ACT

1. Short title

This Act may be cited as the Pensions Act.

2. Interpretation

(1) In this Act—

“aided primary school” has the same meaning as in the Education Act;

“approved service” means service with an international organisation or a corporate body approved by the President;

“car benefit” means the monetary value accruing to an officer for the use of a chauffeur driven car, an official car or a self-driven government car;

“Committee” means the Public Pensions Advisory Committee set up under section 19;

“contractual employee” means a person who is employed on a contractual basis in the public service and whose office is not a pensionable office;

“Correctional Youth Centre” has the same meaning as in the Reform Institutions Act;

“Director-General” has the same meaning as in the Mauritius Revenue Authority Act;

“disciplined force” has the same meaning as in the Constitution;

“house allowance” means the estimated value of free quarters as prescribed;

“individual account”, in relation to a participant, means his individual non-withdrawal account;

“legal personal representative”, in relation to a deceased officer or a deceased pensioner, means the person entitled to his succession;

“member of the Judiciary” means the Chief Justice, the Senior Puisne Judge or a Puisne Judge;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“participant”, in relation to the Scheme, means an officer, a trainee, a student, a cadet, an apprentice, or a contractual employee, who adheres to the Scheme;

“pensionable emoluments”—

- (a) includes salary, car benefit, personal allowance and house allowance, any allowance in the nature of a cost of living allowance or additional remuneration by whatever name called; but
- (b) does not include duty allowance, entertainment allowance or any other emoluments;

“pensionable office”—

- (a) means—
 - (i) an office specified in a Civil Establishment Order made under the Civil Establishment Act; or
 - (ii) an office declared by Government Notice to be a pensionable office; and
- (b) includes the office of an aided primary school teacher, a part-time employee holding a substantive appointment or any person recruited in the public service under a traineeship, studentship, cadetship, or an apprenticeship, scheme in the public service;

“personal allowance”—

- (a) means a special addition to salary granted personally to the holder of the office; but
- (b) does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“personal pension scheme” means a personal pension scheme approved by the Director-General under the Income Tax Act;

“public service” means service in a civil capacity under the Government of Mauritius;

“Rehabilitation Youth Centre” has the same meaning as in the Reform Institutions Act;

“responsible officer” has the same meaning as in the Public Service Commission Regulations;

“salary” means the salary attached to a pensionable office including pensionable allowance;

“Scheme” means the Public Pensions Defined Contribution Pension Scheme set up under section 18;

“SICOM” means the State Insurance Company of Mauritius Limited;

“superannuation fund” has the same meaning as in the Income Tax Act.

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

[S. 2 amended by Act 14 of 1989; Act 48 of 1991; Act 31 of 1993; Act 9 of 2000; s. 3 of Act 24 of 2003 w.e.f. 1 July 2003; s. 24 of Act 14 of 2005 w.e.f. 1 July 2003; s. 27 (a) of Act 18 of 2008 w.e.f. 1 July 2008; s. 14 (a) of Act 37 of 2011 w.e.f. 1 January 2012; s. 21 (a) of Act 26 of 2012 w.e.f. 22 December 2012.]

3. Pension regulations

(1) The President may make such regulations as he thinks fit for the granting of pensions, gratuities and other allowances by the Minister to officers appointed before 1 January 2013.

(1A) The President may, on the recommendation of the Minister, make such regulations as he thinks fit for the granting of pensions, gratuities and other allowances to officers appointed on or after 1 January 2013.

(2) Any pension, gratuity or other allowance granted under this Act shall be computed in accordance with the provisions in force at the date of the officer’s retirement or, in the case of an officer transferred to approved service, in accordance with the provisions in force at the date of the officer’s transfer.

[S. 3 amended by Act 48 of 1991; s. 21 (b) of Act 26 of 2012 w.e.f. 22 December 2012.]

4. Pensions to be charged on Consolidated Fund

There shall be charged on and paid out of the Consolidated Fund all pensions, gratuities or other allowances granted under this Act to or on behalf of public officers appointed before 1 January 2013.

[S. 4 amended by s. 21 (c) of Act 26 of 2012 w.e.f. 22 December 2012.]

4A. Pension contribution

(1) Every public officer—

- (a) appointed on or after 1 July 2008 but before 1 January 2013; or
- (b) who has opted for the pension provisions effective as from 1 July 2008,

shall make a contribution towards his pension at the rate of 6 per cent of his pensionable emoluments which shall, for the purposes of this subsection, not include his car benefit and housing allowance.

(2) Every trainee, student, cadet or apprentice recruited under a traineeship, studentship, cadetship or apprenticeship—

- (a) on or after 1 July 2008 but before 1 January 2013; or
- (b) who has opted for the pension provisions effective as from 1 July 2008,

shall make a contribution towards his pension at the rate of 3 per cent of his emoluments.

(3) Any contribution under subsections (1) and (2) shall—

- (a) accrue daily;
- (b) be rounded to the nearest rupee;
- (c) every month, be deducted from emoluments; and
- (d) be paid into the Consolidated Fund.

(4) Where a person referred to in subsections (1) and (2) has contributed for at least one year and leaves or otherwise ceases to be in the public service, he shall be refunded his contributions together with compound interest at the rate of 4 per cent per annum, computed annually on 31 December, provided that no portable pension benefit is transferable and no pension, gratuity or other allowance is payable to him in respect of his past service.

(5) Where a public officer has been appointed to act in, or has been assigned the duties of, a higher office, his pensionable emoluments shall, for the purposes of subsection (1), include the acting allowance payable to him for performing the duties of the higher office, subject to such conditions as may be prescribed.

[S. 4A inserted by s. 27 (b) of Act 18 of 2008 w.e.f. 1 July 2008; s. 21 (d) of Act 26 of 2012 w.e.f. 22 December 2012.]

5. Pensions not of right

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

(2) Where it is established to the satisfaction of the Minister that an officer has committed negligence, irregularity or misconduct, the pension, gratuity or other allowance may be reduced or altogether withheld.

[S. 5 amended by Act 48 of 1991.]

6. Grant of pensions

(1) Subject to subsection (2), no pension, gratuity or other allowance shall be granted to an officer except on his retirement from the public service—

- (a) in the case of an officer—
 - (i) who is appointed on or after 1 July 2008—
 - (A) on or after attaining the age of 60; or
 - (B) on or after attaining the age of 55, in special cases, with the approval of the President;
 - (ii) who has opted for the pension provisions effective as from 1 July 2008—
 - (A) on or after attaining the age of 55 on the appropriate new retirement date specified in the second column of the First Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule; or
 - (B) on or after attaining the age of 50, in special cases, with the approval of the President, on the appropriate new retirement date specified in the second column of the Second Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;
 - (iii) who has not opted for the pension provisions effective as from 1 July 2008—
 - (A) on or after attaining the age of 55; or
 - (B) on or after attaining the age of 50, in special cases, with the approval of the President; or
 - (iv) who has attained the age of 50, at the request of his responsible officer and with his consent;
- (b) in the case of any member of a disciplined force or any officer of the Correctional Youth Centre or Rehabilitation Youth Centre—
 - (i) appointed on or after 1 July 2008, on or after completing, in the aggregate, $28\frac{3}{4}$ years of pensionable service in the disciplined force or in the Correctional Youth Centre or Rehabilitation Youth Centre, as the case may be; or
 - (ii) appointed before 1 July 2008, on or after completing, in the aggregate, 25 years of pensionable service in the disciplined force or in the Correctional Youth Centre or Rehabilitation Youth Centre, as the case may be;
- (c) subject to section 6B, in the case of an officer who has completed at least 10 years' pensionable service, with the approval of the President on or after attaining the age of 45;
- (d) on the abolition of his office;

- (e) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected;
- (f) on medical evidence to the satisfaction of the President that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
- (g) in the case of termination of employment in the interest of the service as provided in this Act; or
- (h) in the case of overmanning, on or after attaining the age of 45.

(2) A gratuity may be granted to a female officer, who retires on the ground of marriage on or after completing 5 years of pensionable service, whether the marriage took place before or after her appointment to the public service, or on the ground that she is about to marry, notwithstanding that she is not otherwise eligible under subsection (1) for the grant of any pension, gratuity or other allowance.

(3) The gratuity granted under subsection (2) shall be computed in such manner as may be prescribed.

[S. 6 amended by Act 48 of 1991; Act 31 of 1993; Act 9 of 2000; s. 15 (a) of Act 18 of 2003 w.e.f. 21 July 2003; s. 4 of Act 24 of 2003 w.e.f. 1 July 2003; s. 27 (c) of Act 18 of 2008 w.e.f. 1 July 2008; s. 17 (a) of Act 1 of 2009 w.e.f. 1 July 2008.]

6A. Pension to officers in approved service

Subject to this Act, where an officer is transferred to an approved service, no pension, gratuity or other allowance shall be granted to him except on his retirement from the approved service.

6B. Deferred pension where an officer retires at the age of 45

Subject to this Act, where an officer—

- (a) appointed on or after 1 July 2008 retires after attaining the age of 45 under section 6 (1) (c), no pension shall be payable to him until he attains the age of 55;
- (b) appointed before 1 July 2008—
 - (i) has opted for the pension provisions effective as from 1 July 2008 and retires on or after attaining the age of 45 under section 6 (1) (c), no pension shall be payable to him until he attains the appropriate new retirement date specified in the second column of the Second Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;
 - (ii) has not opted for the pension provisions effective as from 1 July 2008 and retires on or after attaining the age of 45 under section 6 (1) (c), no pension shall be payable to him until he attains the age of 50.

[S. 6B inserted by Act 31 of 1993; repealed and replaced by s. 27 (d) of Act 18 of 2008 w.e.f. 1 July 2008; amended by s. 17 (b) of Act 1 of 2009 w.e.f. 1 July 2008.]

6C. Portable pension to officers leaving public service

(1) Where an officer—

- (a) has completed one year's pensionable service;
- (b) leaves the public service to take up other employment, or be self-employed, in Mauritius; and
- (c) is not, at the time of leaving the public service, entitled to a pension, gratuity or other allowance under this Act,

his portable benefits shall be transferred to any superannuation fund operated by his new employer or to any personal pension scheme which he has joined, as the case may be.

(2) The portable benefits referred to in subsection (1) shall be computed in such manner as may be prescribed.

[S. 6C inserted by s. 14 (b) of Act 37 of 2011 w.e.f. 1 January 2012.]

7. Termination of employment in interest of service

(1) Where the service of an officer who was appointed before 1 January 2013 is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer to the service and all the other circumstances of the case, such termination is desirable in the interest of the service, and a pension, gratuity or other allowance cannot otherwise be granted to him, the Minister may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just and proper, not exceeding the amount for which the officer would be eligible if he retired from the public service in the circumstances described in section 6 (1) (f).

(2) Where the service of an officer who is appointed on or after 1 January 2013 is terminated on the ground set out in subsection (1), the benefits payable to the officer shall be computed in such manner as may be prescribed.

[S. 7 amended by s. 15 (b) of Act 18 of 2003 w.e.f. 21 July 2003; s. 21 (e) of Act 26 of 2012 w.e.f. 22 December 2012; s. 19 (a) of Act 26 of 2013 w.e.f. 1 January 2013.]

8. Compulsory retirement

(1) (a) An officer appointed on or after 1 July 2008 shall retire from the service on reaching the age of 65.

(b) Subject to subsections (2) and (3), an officer appointed before 1 July 2008 and who has opted for the pensions provisions effective as from 1 July 2008—

- (i) but born between 1 July 1948 and 31 July 1953, shall retire from the service—
 - (A) on reaching the age of 60; or
 - (B) on the appropriate new retirement date specified in the second column of the Third Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;

- (ii) but born on or after 1 August 1953, shall retire from the service on reaching the age of 65.

(2) An officer appointed before 1 July 2008 but who has not opted for the pension provisions effective as from 1 July 2008, shall retire from the service on reaching the age of 60.

(3) The President may require an officer to retire—

- (a) in the case of an officer appointed on or after 1 July 2008—
 - (i) on or after attaining the age of 60; or
 - (ii) on or after attaining the age of 55, in special cases;
- (b) in the case of an officer who has opted for the pension provisions effective as from 1 July 2008—
 - (i) on or after attaining the age of 55, on the appropriate new retirement date specified in the second column of the First Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule; or
 - (ii) on or after attaining the age of 50, in special cases, with the approval of the President, on the appropriate new retirement date specified in the second column of the Second Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule;
- (c) in the case of an officer who has not opted for the pension provisions effective as from 1 July 2008—
 - (i) on or after attaining the age of 55; or
 - (ii) on or after attaining the age of 50, in special cases, with the approval of the President;
- (d) in the case of a member of a disciplined force or any officer of the Correctional Youth Centre or Rehabilitation Youth Centre appointed—
 - (i) before 1 July 2008, on or after completing, in the aggregate, 25 years of pensionable service in the disciplined force or in the Correctional Youth Centre or Rehabilitation Youth Centre, as the case may be; or
 - (ii) on or after 1 July 2008, on or after completing, in the aggregate, 28 $\frac{3}{4}$ years of pensionable service in the disciplined force or in the Correctional Youth Centre or Rehabilitation Youth Centre, as the case may be;
- (e) in the case of overmanning, on or after attaining the age of 45.

(4) An officer who has attained the age of 60 or the appropriate new retirement date specified in the second column of the Third Schedule corresponding to the appropriate month and year of birth specified in the first column of that Schedule may, with the approval of the appropriate Service Commission, be allowed to remain in service beyond the age of 60, but not

beyond the age of 65, where Government considers that the continuation of his services would be in the interest of the public service.

[S. 8 amended by s. 23 of Act 48 of 1991 w.e.f. 12 March 1991; s. 8 of Act 31 of 1993 w.e.f. 1 July 1993; s. 15 (c) of Act 18 of 2003 w.e.f. 21 July 2003; s. 5 of Act 24 of 2003 w.e.f. 1 July 2003; repealed and replaced by s. 27 (e) of Act 18 of 2008 w.e.f. 1 July 2008; amended by s. 17 (c) of Act 1 of 2009 w.e.f. 1 July 2008.]

9. Maximum pension

(1) Except in the case of a member of the Judiciary, a pension granted to an officer appointed before 1 January 2013 shall not exceed two thirds of the highest pensionable emoluments drawn by him in the course of his service.

(2) For the purposes of this section, an additional pension granted in respect of injury shall not be taken into account, but where the officer is granted an additional pension under this Act, the amount of the additional pension together with the remainder of his pension or pensions shall not, except in the case of a member of the Judiciary, exceed five sixths of his highest pensionable emoluments in the course of his public service.

(3) A member of the Judiciary shall be entitled to such additional pension as may be prescribed.

(4) For the purposes of this Act, the person holding the office of Director of Public Prosecutions on 1 July 1993, the office of Solicitor-General on 1 July 2003, the office of Parliamentary Counsel on 1 July 2008 or the office of Electoral Commissioner on 1 March 2009, shall be deemed to be a member of the Judiciary.

[S. 9 amended by s. 4 of Act 14 of 1989 w.e.f. 1 August 1987; s. 7 of Act 31 of 1993 w.e.f. 1 July 1993; s. 6 of Act 24 of 2003 w.e.f. 1 July 2003; s. 27 (f) of Act 18 of 2008 w.e.f. 1 July 2008; s. 32 of Act 14 of 2009 w.e.f. 30 July 2009; s. 21 (f) of Act 26 of 2012 w.e.f. 22 December 2012.]

10. Liability to take further employment

(1) (a) Every pension granted under this Act shall be subject to the condition that unless or until the officer has attained the age of 50, he may, if physically fit for service, be called upon by the President to accept an office, not less in value than the office which he held at the date of his retirement.

(b) Where a pensioner so called upon declines to accept such office, the payment of his pension may be suspended until he has attained the age of 50.

(2) Subsection (1) shall not apply in any case where the President, being of opinion that the officer is not qualified for other employment in the public service or that there is no reason to expect that he can be shortly re-employed in that service, otherwise directs.

[S. 10 amended by s. 23 of Act 48 of 1991 w.e.f. 12 March 1992.]

11. Suspension of pension on re-employment

(1) Where an officer to whom a pension has been granted is appointed to another office in the public service, the payment of his pension may, with his

consent, if the President thinks fit, be suspended during the period of his re-employment.

(2) Where a former member of the Judiciary to whom an additional pension is payable under section 9 (3) is employed, whether on contract or otherwise, on any duties the performance of which requires the holder to be legally qualified, the payment of the additional pension which would otherwise be payable to him under section 9 (3), may, with the consent of the President if he thinks fit, be suspended during the period of such employment.

[S. 11 amended by s. 5 of Act 14 of 1989 w.e.f. 1 August 1987; s. 23 of Act 48 of 1991 w.e.f. 12 March 1992.]

12. Pension not to be assignable

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

- (a) a debt due to Government; 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 of the officer to whom the pension, gratuity or other allowance has been granted,

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

13. Pension to cease on bankruptcy

(1) Where a person to whom a pension or other allowance has been granted is adjudicated bankrupt or is declared insolvent by judgment of a competent Court, the pension or allowance shall forthwith cease.

(2) Where a person is adjudicated bankrupt or declared insolvent under subsection (1)—

- (a) after retirement in circumstances in which he is eligible for a pension or allowance but before the pension or allowance is granted; or
- (b) before such retirement, and he has not obtained his discharge from bankruptcy or insolvency at the date of retirement,

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

(3) Where a pension or allowance ceases by reason of this section, the President may direct all or any part of the money to which such person would have been entitled by way of pension or allowance had he not been sentenced as mentioned in subsection (1) to be paid, or applied, in the same manner in all respects as prescribed in section 13 and such money shall be paid or applied accordingly.

(4) Where such person after conviction receives a free pardon, the pension or allowance shall be restored with retrospective effect, but 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 all money paid or applied under subsection (3).

[S. 13 amended by s. 23 of Act 48 of 1991 w.e.f. 12 March 1992.]

14. Pension may cease on conviction

(1) Where a person to whom a pension or other allowance has been granted is sentenced to a term of imprisonment by a competent Court for any offence, such pension or allowance shall, if the President so directs, cease as from such date as the President determines.

(2) Where a person is sentenced under subsection (1) after retirement in circumstances in which he is eligible for pension or allowance but before the pension or allowance is granted, subsection (1) shall apply in respect of any pension or allowance which may be granted to him.

(3) Where a pension or allowance ceases by reason of this section, the President may direct all or any part of the money to which such person would have been entitled by way of pension or allowance had he not been sentenced as mentioned in subsection (1) to be paid, or applied, in the same manner in all respects as prescribed in section 13 and such money shall be paid or applied accordingly.

(4) Where such person after conviction receives a free pardon, the pension or allowance shall be restored with retrospective effect, but 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 all money paid or applied under subsection (3).

[S. 14 amended by s. 23 of Act 48 of 1991 w.e.f. 12 March 1992.]

15. Pension may cease on certain appointments

(1) Where a person to whom a pension or other allowance has been granted otherwise than under section 17 becomes either a director of a company of which the principal part of the business is directly concerned with Mauritius, or an officer or servant employed in Mauritius by such company, without the prior permission of the President in writing, such pension or allowance shall cease if the President so directs.

(2) The President may, on being satisfied that the person in respect of whose pension or allowance any such direction has been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Mauritius, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he thinks fit, to such a date as he shall specify, and the pension or allowance shall be restored in accordance with any such directions.

[S. 15 amended by Act 48 of 1991.]

16. Gratuity and pension where an officer or pensioner dies

(1) (a) Where a public officer who was appointed before 1 January 2013 and who holds a pensionable office and who is not serving on probation or agreement (and whether he is on leave of absence on full salary, half salary or without salary at the time of his death), dies while in service, the Minister may order that a gratuity of an amount not exceeding his annual pensionable emoluments, or any commuted pension gratuity, whichever is the greater, shall be paid to his legal personal representative.

(b) For the purposes of this subsection—

“annual pensionable emoluments” means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his death in the circumstances described in section 6 (e);

“commuted pension gratuity” means any gratuity, which might have been granted to the officer in accordance with the Pensions Regulations 1951, or such other regulations as may be made under this Act if his public service had been wholly in Mauritius and if he had retired at the date of his death in the circumstances described in section 6 (e) and had been elected to receive a gratuity and reduced pension.

(2) Where an officer appointed before 1 January 2013 to whom a pension, gratuity or other allowance has been granted under this Act dies after retirement from the service and the sums paid or payable to him at his death on account of any pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his retirement, the Minister may grant to his legal personal representative a gratuity equal to the deficiency.

(3) Upon the death of a public officer who was appointed before 1 January 2013 and to whom a pension under the pension laws has been granted, his legal personal representative shall be paid one full month’s pension in respect of the month in which he dies together with a gratuity of an equivalent amount.

(4) A pension payable under subsection (3) shall be deemed to include all compensations and increases granted to the deceased public officer since his retirement.

(4A) Where a public officer who is appointed on or after 1 January 2013—

- (a) dies while in service; or
- (b) to whom a pension has been granted dies,

any payment under this section to his legal personal representative shall be made in such manner as may be prescribed.

(5) Any payment made under this section shall be free from succession duty.

(6) A legal personal representative shall refund to Government any overpayment made to him under this section in the name of a deceased pensioner.

[S. 16 amended by Act 19 of 1986; Act 4 of 1987; s. 21 (g) of Act 26 of 2012 w.e.f. 22 December 2012; s. 19 (b) of Act 26 of 2013 w.e.f. 1 January 2013.]

16A. Gratuity on death of officer transferred to approved service

(1) (a) Where an officer transferred to approved service dies while in approved service, the President may order that a gratuity of an amount not exceeding his annual pensionable emoluments or any commuted pension gratuity whichever is the greater, be paid to his legal personal representative.

(b) For the purposes of this subsection—

“annual pensionable emoluments” means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he had retired at the date of his transfer to approved service;

“commuted pension gratuity” means any gratuity, which would have been granted to the officer, in accordance with the Pensions Regulations 1951 or such other regulations as may be made under this Act, if he had retired at the date of his transfer to approved service and had elected to receive a gratuity and reduced pension.

(2) Where an officer transferred to approved service to whom a pension, gratuity or other allowance has been granted dies after his retirement from approved service, and the sums paid or payable to him at his death on account of any pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his transfer to approved service, the President may grant to his legal personal representative a gratuity equal to the deficiency.

(3) Where an officer transferred to approved service to whom a pension under this Act has been granted dies, the President may order that the gratuity of one month’s pension shall be paid to his legal personal representative.

(3A) (a) Subsections (1) to (3) shall only apply to an officer who was appointed before 1 January 2013.

(b) Where an officer who is appointed on or after 1 January 2013 is transferred to approved service, the amount of any pension, gratuity or other allowance payable to him under this section shall be computed in such manner as may be prescribed.

(4) Any payment made under this section shall be free from succession duty.

[S. 16A amended by Act 48 of 1991; s. 21 (h) of Act 26 of 2012 w.e.f. 22 December 2012; s. 19 (c) of Act 26 of 2013 w.e.f. 1 January 2013.]

16B. Overpayment made to pensioner

Every pensioner shall refund to Government any overpayment made to him under this Act.

[S. 16B inserted by s. 19 (d) of Act 26 of 2013 w.e.f. 1 January 2013.]

17. Pension where officer is killed on duty

(1) Where an officer dies as a result of injuries received—

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

while in service, the Minister may, in addition to any grant made to his legal personal representative under section 16—

- (i) where the deceased officer leaves a widow, grant a pension to her, while unmarried, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or 200 rupees a year, whichever is the greater;
- (ii) where the deceased officer leaves a widow to whom a pension is granted under paragraph (i) and a child or children, grant a pension in respect of every child, until such child attains the age of 18, of an amount not exceeding one-eighth of the pension prescribed under paragraph (i);
- (iii) where the deceased officer leaves a child or children, but does not leave a widow, or no pension is granted to the widow, grant a pension in respect of every child, until such child attains the age of 18, of double the amount prescribed by paragraph (ii);
- (iv) where the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i), and the widow subsequently dies, grant a pension in respect of every child as from the date of the death of the widow until such child attains the age of 18, of double the amount prescribed in paragraph (ii);
- (v) where the deceased officer does not leave a widow, or where no pension is granted to his widow, and if his mother, or where his mother is dead, his father, was wholly or mainly dependent on him for support, grant a pension to the mother or to the father, as the case may be, who is without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
- (vi) where the deceased officer does not leave a widow, mother or father, or where no pension is granted to any of them, and where he leaves no children who are eligible for a pension under this section, and his brother or sister was wholly or mainly dependent on him for support, grant a pension to the brother or unmarried sister, as the case may be, who is without adequate means of support, of an amount not exceeding the pension which might have been granted to the widow.

(2) (a) A pension shall not be payable under subsection (1) in respect of more than 6 children.

(b) In the case of a pension granted under subsection (1) (c) (v), where the mother is a widow at the time of the grant of the pension and subsequently

remarries, such pension shall cease as from the date of remarriage, and if it appears to the President, at any time, that the mother is adequately provided with other means of support, such pension shall cease from such date as the President may determine.

(c) A pension granted to a female child under subsection (1) shall cease upon the marriage of such child under the age of 18.

(d) A pension granted to a sister under subsection (1) (c) (vi) shall cease upon her marriage or remarriage.

(3) Where an officer proceeding by a route approved by the President to or from Mauritius at the commencement or termination of his service, or of a period of leave, dies as the result of damage to the vessel, aircraft or vehicle in which he is proceeding or of any act of violence directed against such vessel, aircraft or vehicle, and the President is satisfied that such damage or act is attributable to circumstances arising out of a war in which the State may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in subsection (1).

(4) (a) Where an officer dies as a result of injuries received while travelling by air in pursuance of official instructions, he shall be deemed to have died in the circumstances described in subsection (1) (a) and (c).

(b) In such a case, if the circumstances specified in subsection (1) (b) are satisfied, subsection (1) (c) (i) and (ii) shall have effect as if the rates of pension prescribed therein were fifteen-sixtieths and one-sixth, respectively.

(5) For the purposes of this section—

“child” includes—

- (a) a posthumous child;
- (b) a stepchild or illegitimate child born before the date of the injury and wholly or mainly dependent upon the deceased officer for support; and
- (c) an adopted child, adopted in a manner recognised by law, before the date of the injury, and dependent upon the deceased officer for support.

(5A) (a) Subsections (1), (3) and (4) shall only apply to an officer who was appointed before 1 January 2013.

(b) Where an officer who is appointed on or after 1 January 2013 dies in circumstances set out in subsection (1), the amount of pension payable to his spouse and dependents under this section shall be computed in such manner as may be prescribed.

(6) This section shall not apply in the case of the death of any officer selected for appointment to the service of Mauritius if his dependants as defined in the Workmen’s Compensation Act are entitled to compensation under that Act.

[S. 17 amended by Act 48 of 1991; s. 15 (d) of Act 18 of 2003 w.e.f. 21 July 2003; s. 21 (i) of Act 26 of 2012 w.e.f. 22 December 2012.]

18. Public Pensions Defined Contribution Pension Scheme

(1) There is set up, for officers appointed on or after 1 January 2013, a Public Pensions Defined Contribution Pension Scheme.

(2) (a) Subject to paragraph (b), the Scheme shall be operated, and the benefits therefrom shall be computed, in such manner as may be prescribed.

(b) The Scheme shall provide for an individual account for every participant.

[S. 18 inserted by s. 21 (j) of Act 26 of 2012 w.e.f. 22 December 2012.]

19. Public Pensions Advisory Committee

(1) There is set up for the purposes of the Scheme a committee to be known as the Public Pensions Advisory Committee.

(2) The Committee shall—

- (a) make all necessary decisions for the operation of the Scheme;
- (b) determine investment choices and strategies in relation to the Scheme;
- (c) make recommendations to the Minister for the viability of the Scheme, based on an actuarial review made, at intervals of not more than 5 years, by the Committee or by the Ministry responsible for the subject of social security;
- (d) make recommendations to the Minister in relation to matters pertaining to the grant of benefits to participants under the Scheme;
- (e) make recommendations to the Minister on changes required to the legal and policy decisions with a view to enhancing the Scheme and maintaining its viability;
- (f) perform any other function in relation to the operation of the Scheme.

(3) The Committee shall consist of—

- (a) the Financial Secretary, who shall be the Chairperson;
- (b) the 3 public officers appointed under section 38 (3) (a) (ii) of the National Pensions Act;
- (c) the representative of the Ministry responsible for the subject of social security who is designated by that Ministry to attend the NPF and NSF Committee set up under section 38 (2) of the National Pensions Act;
- (d) a person designated by each of the 2 confederations which are most representative of employees in the civil service, who possesses relevant academic or professional qualifications and has proven experience in the field of finance, economics, actuarial science or accountancy;

- (e) a person designated by the trade union which is most representative of employees of statutory bodies, who possesses relevant academic or professional qualifications and has proven experience in the field of finance, economics, actuarial science or accountancy;
- (f) a representative of the Ministry responsible for the subject of the civil service, who shall be a professional in the field of finance, economics, actuarial science or accountancy; and
- (g) not more than 3 other members, to be appointed by the Minister on the recommendation of the Chairperson and who shall have experience in the field of finance or proven knowledge in pension matters.

(4) The Committee shall meet as often as is necessary but at least once every 6 months and at such time and place as the Chairperson thinks fit.

(5) At any meeting of the Committee, 7 members shall constitute a quorum.

(6) Subject to this section, the Committee shall regulate its meetings and proceedings in such manner as it may determine.

(7) In subsection (3) (d)—

“confederation” has the same meaning as in the Employment Relations Act.

[S. 19 inserted by s. 21 (j) of Act 26 of 2012 w.e.f. 22 December 2012; amended by s. 19 (e) of Act 26 of 2013 w.e.f. 1 January 2013.]

20. Administration of funds and assets of individual accounts

(1) Subject to subsection (2), the funds and assets of the individual accounts shall be administered by SICOM.

(2) The Committee may entrust the administration of the funds and assets of the individual accounts to such other authorised agent as may be prescribed.

(3) A participant may opt for SICOM or an authorised agent referred to in subsection (2) for the administration of the funds and assets of his individual account.

[S. 20 inserted by s. 21 (j) of Act 26 of 2012 w.e.f. 22 December 2012.]

21. Contribution to individual account

(1) Every officer appointed on or after 1 January 2013 shall adhere to the Scheme and make a contribution to his individual account towards his pension at the minimum rate of 6 per cent, or at such other rate as may be prescribed, of his pensionable emoluments, which shall not include his car benefit and housing allowance but shall include, subject to such conditions as may be prescribed, any acting allowance payable to him for performing the duties of a higher office.

(2) (a) Every trainee, student, cadet or apprentice recruited under a traineeship, studentship, cadetship or apprenticeship and every contractual employee may adhere to the Scheme.

(b) The minimum rate of contribution to be made by a person who adheres to the Scheme under paragraph (a) shall be 3 per cent of his pensionable emoluments.

(3) (a) The Government shall make a contribution to the individual account of an officer towards his pension, at the rate of 12 per cent, or at such other rate as may be prescribed, of the pensionable emoluments of the officer, which shall not include his car benefit and housing allowance.

(b) The Government shall not make any contribution in respect of a trainee, student, cadet, apprentice or contractual employee who adheres to the Scheme under subsection (2).

(4) (a) Any contribution under subsections (1) and (2) may, at the request of a participant and after the participant has given one month's written notice to this effect to his employer, be increased beyond or reduced to the minimum rate.

(b) A request for an increase or reduction under paragraph (a) shall be irrevocable for one year after the month in which the increased or reduced contribution has been deducted from the emoluments of the participant for the first time.

(5) (a) Any contribution under this section shall—

- (i) accrue daily;
- (ii) be rounded to the nearest rupee;
- (iii) every month, be deducted from emoluments; and
- (iv) be paid into the individual account of the participant not later than the tenth of the following month.

(b) An employer shall make a deduction from an officer's emoluments where the failure to deduct the contribution was the result of an accidental mistake or a clerical error in which case the deductions shall be made according to the written instructions of the responsible officer of the participant concerned.

[S. 21 inserted by s. 21 (j) of Act 26 of 2012 w.e.f 22 December 2012; amended by s. 19 (f) of Act 26 of 2013 w.e.f. 1 January 2013.]

22. Benefits of participants leaving service

Where a participant has adhered to the Scheme and has contributed to his individual account towards his pension for at least one year and leaves or otherwise ceases to be in the public service, the participant may elect to—

- (a) transfer the accumulated benefits to a pension scheme administered by SICOM or another authorised agent referred to in section 20 (2), as the case may be;
- (b) leave the accumulated benefits in his individual account until retirement or death; or
- (c) be refunded his share of contributions from the fund balance in his individual account.

[S. 22 inserted by s. 21 (j) of Act 26 of 2012 w.e.f. 22 December 2012; repealed and replaced by s. 19 (g) of Act 26 of 2013 w.e.f. 1 January 2013.]

23. Payment of costs and benefits

(1) Subject to subsection (2), any benefit payable under the Scheme shall—

- (a) accrue as from the month in which the participant becomes entitled to receive it; and
- (b) be paid in such manner and subject to such conditions as may be prescribed.

(2) The benefits accruing to a contractual employee who adheres to the Scheme shall be paid in accordance with his contract of employment.

(3) The benefits payable under this section shall be paid by SICOM or the authorised agent referred to in section 20 (2), as the case may be.

(4) There shall be paid out of the individual account of a participant such amount incurred as costs for the administration of the individual account.

[S. 23 inserted by s. 21 (j) of Act 26 of 2012 w.e.f. 22 December 2012; amended by s. 19 (h) of Act 26 of 2013 w.e.f. 1 January 2013.]

FIRST SCHEDULE

[Sections 6 (1) (a) (ii) (A) and 8 (3) (b) (i)]

Month and year of birth	New retirement date
July 1953	July 2008
August 1953	September 2008
September 1953	November 2008
October 1953	January 2009
November 1953	March 2009
December 1953	May 2009
January 1954	July 2009
February 1954	September 2009
March 1954	November 2009
April 1954	January 2010
May 1954	March 2010
June 1954	May 2010
July 1954	July 2010
August 1954	September 2010
September 1954	November 2010
October 1954	January 2011
November 1954	March 2011
December 1954	May 2011
January 1955	July 2011

FIRST SCHEDULE—*continued*

Month and year of birth	New retirement date
February 1955	September 2011
March 1955	November 2011
April 1955	January 2012
May 1955	March 2012
June 1955	May 2012
July 1955	July 2012
August 1955	September 2012
September 1955	November 2012
October 1955	January 2013
November 1955	March 2013
December 1955	May 2013
January 1956	July 2013
February 1956	September 2013
March 1956	November 2013

continued on page P6 – 15

FIRST SCHEDULE—continued

Month and Year of Birth	New Retirement Date
April 1956	January 2014
May 1956	March 2014
June 1956	May 2014
July 1956	July 2014
August 1956	September 2014
September 1956	November 2014
October 1956	January 2015
November 1956	March 2015
December 1956	May 2015
January 1957	July 2015
February 1957	September 2015
March 1957	November 2015
April 1957	January 2016
May 1957	March 2016
June 1957	May 2016
July 1957	July 2016
August 1957	September 2016
September 1957	November 2016
October 1957	January 2017
November 1957	March 2017
December 1957	May 2017
January 1958	July 2017
February 1958	September 2017
March 1958	November 2017
April 1958	January 2018
May 1958	March 2018
June 1958	May 2018
July 1958	July 2018
August 1958 and thereafter	60th birthday (1 August 2018 or later)

[First Sch., formerly Second Sch., added by s. 27 (g) of Act 18 of 2008 w.e.f. 1 July 2008; amended and renamed by s. 17 (d) of Act 1 of 2009 w.e.f. 1 July 2008.]

SECOND SCHEDULE

[Section 6 (1) (a) (ii) (B), 6B (b) (i) and 8 (3) (b) (ii)]

Month and Year of Birth	New Retirement Date
July 1958	July 2008
August 1958	September 2008
September 1958	November 2008
October 1958	January 2009
November 1958	March 2009
December 1958	May 2009
January 1959	July 2009
February 1959	September 2009
March 1959	November 2009
April 1959	January 2010
May 1959	March 2010
June 1959	May 2010
July 1959	July 2010
August 1959	September 2010
September 1959	November 2010
October 1959	January 2011
November 1959	March 2011
December 1959	May 2011
January 1960	July 2011
February 1960	September 2011
March 1960	November 2011
April 1960	January 2012
May 1960	March 2012
June 1960	May 2012
July 1960	July 2012
August 1960	September 2012
September 1960	November 2012
October 1960	January 2013
November 1960	March 2013
December 1960	May 2013
January 1961	July 2013
February 1961	September 2013

SECOND SCHEDULE—continued

Month and Year of Birth	New Retirement Date
March 1961	November 2013
April 1961	January 2014
May 1961	March 2014
June 1961	May 2014
July 1961	July 2014
August 1961	September 2014
September 1961	November 2014
October 1961	January 2015
November 1961	March 2015
December 1961	May 2015
January 1962	July 2015
February 1962	September 2015
March 1962	November 2015
April 1962	January 2016
May 1962	March 2016
June 1962	May 2016
July 1962	July 2016
August 1962	September 2016
September 1962	November 2016
October 1962	January 2017
November 1962	March 2017
December 1962	May 2017
January 1963	July 2017
February 1963	September 2017
March 1963	November 2017
April 1963	January 2018
May 1963	March 2018
June 1963	May 2018
July 1963	July 2018
August 1963 and thereafter	55th birthday (1 August 2018 or later)

[Second Sch., formerly Third Sch., added by s. 27 (g) of Act 18 of 2008 w.e.f. 1 July 2008; amended and renamed by s. 17 (d) of Act 1 of 2009 w.e.f. 1 July 2008.]

THIRD SCHEDULE
[Sections 8 (1) (b) (i) (AB) and 8 (4)]
**PHASING OF RETIREMENT AGE FROM 60 TO 65 YEARS
OVER THE PERIOD 2008 TO 2018**

Month and Year of Birth	New Retirement Date
July 1948	July 2008
August 1948	September 2008
September 1948	November 2008
October 1948	January 2009
November 1948	March 2009
December 1948	May 2009
January 1949	July 2009
February 1949	September 2009
March 1949	November 2009
April 1949	January 2010
May 1949	March 2010
June 1949	May 2010
July 1949	July 2010
August 1949	September 2010
September 1949	November 2010
October 1949	January 2011
November 1949	March 2011
December 1949	May 2011
January 1950	July 2011
February 1950	September 2011
March 1950	November 2011
April 1950	January 2012
May 1950	March 2012
June 1950	May 2012
July 1950	July 2012
August 1950	September 2012
September 1950	November 2012
October 1950	January 2013
November 1950	March 2013
December 1950	May 2013
January 1951	July 2013
February 1951	September 2013

THIRD SCHEDULE—*continued*

Month and Year of Birth	New Retirement Date
March 1951	November 2013
April 1951	January 2014
May 1951	March 2014
June 1951	May 2014
July 1951	July 2014
August 1951	September 2014
September 1951	November 2014
October 1951	January 2015
November 1951	March 2015
December 1951	May 2015
January 1952	July 2015
February 1952	September 2015
March 1952	November 2015
April 1952	January 2016
May 1952	March 2016
June 1952	May 2016
July 1952	July 2016
August 1952	September 2016
September 1952	November 2016
October 1952	January 2017
November 1952	March 2017
December 1952	May 2017
January 1953	July 2017
February 1953	September 2017
March 1953	November 2017
April 1953	January 2018
May 1953	March 2018
June 1953	May 2018
July 1953	July 2018
August 1953 and thereafter	65th birthday (1 August 2018 or later)

[Third Sch., formerly First Sch., added by s. 27 (g) of Act 18 of 2008 w.e.f. 1 July 2008; amended and renamed by s. 17 (d) of Act 1 of 2009 w.e.f. 1 July 2008.]

