CHAPTER 22

An Act to enable effect to be given to arrangements as to pensions and connected matters made or to be made between Her Majesty's Government in the United Kingdom and the Government of India or the Government of Pakistan, and to amend the law in relation to certain pensions and other benefits arising out of service in or connected with India, Pakistan or Burma. [6th May, 1955]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Arrangements as to transfer of pension liabilities to Government of United Kingdom.

1.—(1) The arrangements between Her Majesty's Government in the United Kingdom and the Government of India embodied in the letters set out in the First Schedule to this Act are hereby approved, and—

(*a*) anything which, under the said arrangements, falls to be done in relation to the pensions and benefits affected thereby by Her Majesty's Government in the United Kingdom shall be done by the Secretary of State;

(*b*) any moneys required by the Secretary of State for discharging his functions under the preceding paragraph, whether for providing the pensions or benefits or for his administrative expenses, and any moneys otherwise payable by virtue of the said arrangements by Her Majesty's Government in the United Kingdom (other

than moneys which, by virtue of the National Loans Act, 1939, fall to be paid out of the Consolidated Fund) shall be paid out of moneys provided by Parliament:

Provided that—

(i) the Secretary of State shall not vary the tables applicable to commutation of any of the said pensions except with the consent of the Treasury;

(ii) sections six and eight of the Pensions Commutation Act, 1871 (which relate to the provision by the National Debt Commissioners of moneys required for the commutation of pensions and to repayments to those Commissioners by means of terminable annuities paid out of moneys provided by Parliament) shall apply to commutations of the said pensions as they apply to commutations of pensions under that Act, so, however, that the person to whom any such certificate as is mentioned in the said section eight is to be notified shall be the Secretary of State.

In the proviso to this subsection references to commutation of pensions include references to commutation of portions of pensions.

(2) If any arrangements other than those embodied in the said letters are come to between Her Majesty's Government in the United Kingdom and the Government of India or the Government of Pakistan relating to the transfer to Her Majesty's Government in the United Kingdom of liability for or the administration of pensions and other benefits and to any related matters, the Secretary of State, with the consent of the Treasury, may by order direct that subsection (1) of this section shall apply in relation to those arrangements as it applies in relation to the arrangements embodied in the said letters.

Power of Secretary of State to make good Indian or Burman income tax deducted from pensions.

2. The Secretary of State may make good out of moneys provided by Parliament any income tax for which relief has not otherwise been given which is deducted under the law of India or the law of Burma from any pension which, under section two hundred and seventy-two of the Government of India Act, 1935, or section one hundred and twenty-six of the Government of Burma Act, 1935, was to be exempt from taxation imposed by or under the laws there referred to.

Extension to certain persons and pensions of provisions in Superannuation Act, 1949, and Pensions (Increase) Acts.

3.—(1) Rules made by the Treasury may—

(*a*) direct that the Pensions (Increase) Acts, 1944 and 1947, and the Pensions (Increase) Act, 1954, shall, with such adaptations and modifications as may be specified in the rules, apply in relation to any of the pensions specified in Part I of the Second Schedule to this Act as if that pension were a pension specified in Part I

of the First Schedule to the Pensions (Increase) Act, 1944, and, if the rules so provide, were also such a pension as is specified in section two of that Act;

(*b*) direct that the Pensions (Increase) Act, 1952, shall, with such adaptations and modifications as may be specified in the rules, apply in relation to any of the pensions specified in Parts I and II of the Second Schedule to this Act as if it were one of the pensions specified in Part I of the First Schedule to that Act;

(*c*) apply, with such adaptations and modifications as may be specified in the rules, any of the provisions of the Superannuation Act, 1949, to all or any of the persons specified in Part III of the Second Schedule to this Act, or, in the case of a provision which already has an application to such a person, give to that provision an extended application in relation to him,

and, on the coming into force of rules made under this subsection, section five of the Superannuation (Miscellaneous Provisions) Act, 1948, paragraph (*c*) of subsection (1) of section three of the Pensions (Increase) Act, 1952, and, in subsection (2) of the said section three, the words from " and subsection (2) of section five " to the end of the section shall cease to have effect.

(2) Any increase of any pension, and any increase in the administrative expenses of any Minister, attributable to the provisions of this section, shall be paid out of moneys provided by Parliament.

4. The power to make orders conferred by subsection (2) of section one of this Act and the power to make rules conferred by subsection (1) of section three of this Act shall be exercisable by statutory instrument, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament. Orders and rules.

5. This Act may be cited as the Pensions (India, Pakistan and Burma) Act, 1955. Short title.

SCHEDULES

Section 1.

FIRST SCHEDULE

LETTERS EMBODYING ARRANGEMENTS BETWEEN HER MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF INDIA

Letter from the High Commissioner of the United Kingdom in India to the Finance Minister of India

Office of the High Commissioner
for the United Kingdom,
6, Albuquerque Road,
New Delhi.
7th March, 1955.

TC. 935/5

My dear Minister,

I write with reference to the arrangements agreed upon between the Government of India and the Government of the United Kingdom in July, 1948, under which the Government of India purchased annuities from the Government of the United Kingdom for the purpose of meeting the sterling pensionary obligations of the Dominion of India and the Provinces thereof. These arrangements are set out in the letters dated 9th July, 1948, exchanged between the then Minister of Finance, the Hon. Shri R. K. Shanmukham Chetty, for India, and the then Chancellor of the Exchequer, the Rt. Hon. Sir Stafford Cripps, for the United Kingdom.

2. These arrangements have again been considered and it is the understanding of the Government of the United Kingdom that the Government of India agree that there shall be transferred to the Government of the United Kingdom on 1st April, 1955, the control, administration and payment of pensions and other liabilities to or in respect of persons who have served the Crown, as set forth in the annexure hereto, payable out of the consolidated fund of India or of the consolidated fund of the States in the Union of India. The Government of India will remain responsible for any instalments of pensions in respect of periods prior to 1st April, 1955, which remain unpaid on the date of transfer.

3. In consideration of the acceptance of this transfer by the Government of the United Kingdom and of the payments mentioned in the next two paragraphs, the Government of India agree that payment of the annuities referred to in paragraph 1 shall cease after payment of the instalments due on 1st March, 1955.

4. For their part the Government of the United Kingdom undertake that the balance of the principal portion of the debt in respect of annuities referred to in paragraph 1 remaining outstanding on 31st March, 1955, after deduction of the capital value at that date of the estimated future cost of the pensions and other liabilities transferred to the United Kingdom in accordance with paragraph 2 of this letter shall be repaid to the Government of India in the manner set out in paragraph 6.

1ST SCH. —*cont.*

5. In addition, they undertake to pay a capital amount to be agreed upon in respect of Indian Income Tax which the Government of India would have received had the responsibility for the payment of pensions and other liabilities not been transferred to the Government of the United Kingdom.

6. Payment of the sums referred to in paragraphs 4 and 5 will be made in ten equal instalments on the 1st April of each year, commencing in 1955. The first of such instalments to be paid on 1st April, 1955. Interest on the balance outstanding from time to time at the rate of one per cent. per annum will be payable on the same date as the payment of instalments.

7. (i) The Government of the United Kingdom also undertake:

(*a*) that they will pay the pensions and provide for other liabilities so transferred for such time as the pensioners are entitled to them under rules in force on the date preceding that of transfer;

(*b*) that they will not so amend the rules applicable to the pensioners as to reduce their entitlements;

(*c*) that they will indemnify the Government of India and the Government of a State in the Union of India against costs and expenses incurred by them in defending a suit or other legal proceeding for payment of pension and other liabilities brought against the Government of India or the Government of such State by a pensioner, responsibility for whose pension and other benefits has been transferred to the Government of the United Kingdom, and

(*d*) that if the Court holds that such a suit or other proceeding is maintainable, they will indemnify the Government of India or the Government of such State, as the case may be, against any amount awarded by the Court in respect of the pension and other liabilities and the plaintiff's costs in the matter.

(ii) The agreement set out in the preceding sub-paragraphs (*c*) and (*d*) is subject to the following conditions—

(*a*) if a pensioner brings such a suit or other proceeding the Government of India or of the State will defend the suit or proceeding and contend *inter alia* that it is not maintainable;

(*b*) if the parliament of the Union of India alter the law of India as in force on 1st April, 1955, so as to make such a suit or other proceeding legally maintainable the agreement of the Government of the United Kingdom to indemnify the Government of India or Government of a State will cease to apply. If the legislature of a State in the Union of India alter the law of that State as in force on that date so as to make such a suit or other proceeding legally maintainable the agreement of the Government of the United Kingdom to indemnify the Government of India or Government of a State will cease to apply in respect of a suit or proceeding in that State.

8. The arrangements set forth in this letter are subject to the passing of such legislation as may be necessary.

1ST SCH. —*cont.*

9. I shall be grateful to have your confirmation that this is also the understanding of the Government of India.

Yours sincerely,
P. A. CLUTTERBUCK.

THE HON. C. D. DESHMUKH,
Minister of Finance,
Government of India.

Annexure

1. (i) All pensions and connected benefits to and in respect of persons who served the Crown which are payable out of the consolidated fund of India or of the consolidated fund of the States and which are currently in issue on the 31st March, 1955, by the High Commissioner for India in the United Kingdom or by the Commonwealth Relations Office or by Paymasters accounting to either.

(ii) For the purpose of this and paragraphs 2 and 5, pensions currently in issue shall be deemed to include pensions temporarily suspended.

2. Pensions and connected benefits to or in respect of Europeans who served the Crown payable out of the consolidated fund of India or of the consolidated fund of the States and which are currently in issue on the 31st March, 1955, by Paymasters outside India, Pakistan, Aden and Burma accounting to India.

3. Contingent pensions of European officers who before the 15th August, 1947, belonged to the Indian Army, the Indian Medical Service, the Royal Indian Navy or the Secretary of State's Civil Services, who are serving under the Government of India or the Government of a State in the Union of India on 31st March, 1955, or who on that date are on leave preparatory to retirement.

4. Contingent pensions of widows and other dependants of any of the persons responsibility for whose own pensions and connected benefits or contingent pensions is transferred to the United Kingdom Government under paragraphs 1, 2 and 3 above.

Note: For the purpose of paragraphs 1, 2 and 4, pensions include benefits payable under the rules of Family Pensions Funds (other than those to which paragraph 5 relates) in so far as they are met by Government.

5. (i) All pensions currently in issue on 31st March, 1955, and payable under the Superior Services (India) Family Pension Fund (Untransferred) Rules, 1939, or the rules of the Indian Civil Service Family Pension (Untransferred) Fund, the Indian Military Services Family Pension (Untransferred) Fund or the Indian Military Widows' and Orphans' (Untransferred) Fund.

(ii) All contingent pensions and other benefits payable under the rules mentioned in the preceding sub-paragraph.

(iii) Government contribution under the Indian Civil Service Family Pension Fund (Transferred) Rules.

1ST SCH. —*cont.*

6. Contingent pensions in respect of members of the staff of the High Commission for India or the India Audit Office who were serving as such on the 31st March, 1937, and who are serving as such in a pensionable capacity on 31st March, 1955.

7. The Government of India's liability in respect of contingent pensions of members of the United Kingdom Civil Service who had been lent to the Government of India or to a former Provincial Government before 15th August, 1947.

8. The Government of India's liability for a portion of the pensions or contingent pensions of persons in the following categories:—

(i) persons who before their appointment to the United Kingdom Civil Service had served on the staff of the Secretary of State for India in Council, of the High Commissioner for India before 1st April, 1937, of the Auditor of Indian Home Accounts, or of the Auditor of the Accounts of the Secretary of State for India in Council.

(ii) Officers of the Indian Army or Royal Indian Navy who have been transferred to the British Service and officers of the Royal Engineers, Royal Artillery, Royal Corps of Signals, the continuous Indian Service Cadre of the Royal Army Veterinary Corps and the Army Educational Corps.

Note 1: For all purposes of paragraphs 3, 4, 5, 6 and 7 contingent pensions shall be determined with reference to the rules applicable to the person concerned on 31st March, 1955.

Note 2: For the purpose of paragraphs 7 and 8 the Government of India's liability means the liability of the Union of India or of a State in that Union under the financial arrangements in force on 31st March, 1955.

Letter from the Finance Minister of India to the High Commissioner of the United Kingdom in India

New Delhi,
7th March, 1955.

My dear High Commissioner,

I have to acknowledge receipt of your letter of to-day's date reading as follows:—

[*Here follows the text of the High Commissioner's letter as given above.*]

2. I have pleasure in confirming that the understanding of your Government as set out in that letter is accepted by my Government.

Yours sincerely,
C. D. DESHMUKH.

HIS EXCELLENCY SIR ALEXANDER CLUTTERBUCK, G.C.M.G., M.C.,
High Commissioner of the United Kingdom in India,
6, Albuquerque Road,
New Delhi.

Section 3.

SECOND SCHEDULE

PART I

PENSIONS TO WHICH PENSIONS (INCREASE) ACTS, 1944 AND 1947, PENSIONS (INCREASE) ACT, 1952, AND PENSIONS (INCREASE) ACT, 1954, MAY BE APPLIED

1. A pension payable in respect of service to the Crown which is or, but for any arrangements to which subsection (1) of section one of this Act applies, would be, payable out of the revenues of India or Pakistan to any person resident in the United Kingdom, or, where the pension is expressed in sterling, in any other place outside India and Pakistan, being service, whether by the recipient of the pension or some other person, either—

(*a*) in a civil capacity; or

(*b*) by virtue of which the recipient of the pension has pension rights in relation to any of the following funds, that is to say, the Bengal Military Fund and Orphans Society, the Bombay Military Fund, the Madras Military Fund, the Madras Medical Fund or the Indian Navy Fund,

and being in either case service which ended before the fifteenth day of August, nineteen hundred and forty-seven, or the termination of which was attributable to the passing of the Indian Independence Act, 1947.

In this paragraph, "pension rights" includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person.

2. A pension payable to or in respect of a member of the staff of the High Commissioner for India or the High Commissioner for Pakistan who at some time before he was transferred to the staff of the High Commissioner had been an officer or servant on the permanent establishment of the Secretary of State in Council of India.

3. A pension payable to or in respect of a person who was appointed to the staff of the Auditor of the Accounts of the Secretary of State for India in Council before the first day of April, nineteen hundred and thirty-seven.

4. A pension payable to or in respect of a European officer of the Royal Indian Marine.

PART II

PENSIONS TO WHICH PENSIONS (INCREASE) ACT, 1952, MAY BE APPLIED

1. A pension payable to or in respect of any person resident in the United Kingdom or, where the pension is expressed in sterling, in any other place outside Burma, India and Pakistan, being a pension payable from the revenues of Burma in respect of service in a civil capacity in Burma which ended before the fourth day of January, nineteen hundred and forty-eight or the termination of which was attributable to the passing of the Burma Independence Act, 1947.

2. A pension payable to or in respect of a European warrant officer of the Royal Indian Marine.

2ND SCH. —*cont.*

PART III

PERSONS TO WHOM PROVISIONS OF THE SUPERANNUATION ACT, 1949, MAY BE APPLIED OR GIVEN AN EXTENDED APPLICATION

1. A member or former member of the staff of the High Commissioner for India or the High Commissioner for Pakistan who, before being transferred to the staff of the High Commissioner, had at some time been an officer or servant on the permanent establishment of the Secretary of State in Council of India.

2. A member or former member of the staff of the Auditor of the Accounts of the Secretary of State for India in Council or the Auditor of Indian Home Accounts who was appointed to the staff of the Auditor before the fifteenth day of August, nineteen hundred and forty-seven.

3. A former officer or servant on the permanent establishment of the Secretary of State in Council of India who became a civil servant (within the meaning of the Superannuation Act, 1949) before the first day of April, nineteen hundred and thirty-seven.

4. A person who is or has been a civil servant (within the meaning of the Superannuation Act, 1949), and who, at some time before the fifteenth day of August, nineteen hundred and forty-seven, served under the Government of India or the Government of any Province in India.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Pensions Commutation Act, 1871	34 & 35 Vict. c. 36.
Government of India Act, 1935	26 Geo. 5. & 1 Edw. 8. c. 2.
National Loans Act, 1939	2 & 3 Geo. 6. c. 117.
Pensions (Increase) Act, 1944	7 & 8 Geo. 6. c. 21.
Indian Independence Act, 1947	10 & 11 Geo. 6. c. 30.
Burma Independence Act, 1947	11 & 12 Geo. 6. c. 3.
Superannuation (Miscellaneous Provisions) Act, 1948	11 & 12 Geo. 6. c. 33.
Superannuation Act, 1949	12, 13 & 14 Geo. 6. c. 44.
Pensions (Increase) Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 45.
Pensions (Increase) Act, 1954	2 & 3 Eliz. 2. c. 25.

PRINTED BY JOHN ROUGHTON SIMPSON, C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament