

Seychelles

## Pensions Act

Act 3 of 1933

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Pensions Act  
Contents

- 1. Short title ..... 1
- 2. Definitions ..... 1
- 3. President may make pension regulations ..... 2
- 4. Pensions not of right ..... 2
- 5. Service not qualifying for pension ..... 3
- 6. Circumstances in which pensions may be granted ..... 3
- 7. Retirement on grounds of public interest ..... 4
- 8. Age of compulsory retirement ..... 4
- 9. Maximum pension grantable ..... 4
- 10. Re-employment, effect on gratuity or pension ..... 5
- 11. Pensions, etc., not to be assignable ..... 5
- 12. Pensions, etc., to cease on bankruptcy ..... 5
- 13. Pensions, etc., to cease on conviction ..... 5
- 14. Pensions, etc., to cease on accepting certain appointments ..... 5
- 15. Gratuity when officer dies in service or after retirement ..... 6
- 16. Gratuity when pensioner dies ..... 6
- 17. Minister's decision final ..... 6
- 18. Pensions etc., to dependants when an officer is killed on duty ..... 7
- 19. Application of Act ..... 7
- 20. War services to count for pension purposes ..... 8

# Seychelles

## Pensions Act

### Act 3 of 1933

Commenced on 13 May 1933

[This is the version of this document at 30 June 2012 and includes any amendments published up to 30 June 2014.]

[Act 3 of 1933; Act [14 of 1935](#); Act [5 of 1936](#); Act [13 of 1937](#); Act [38 of 1948](#); Act [17 of 1950](#); Act [35 of 1950](#); Act [10 of 1954](#); Act [4 of 1956](#); Act [7 of 1956](#); Act [14 of 1957](#); Act [9 of 1966](#); Act [34 of 1967](#); Act [3 of 1970](#); Act [17 of 1971](#); SI. 95 of 1975; Act [6 of 1976](#); SI. 72 of 1976; Act [23 of 1976](#); Dec. 48 of 1978; Dec. 31 of 1979; SI. 93 of 1981; Act [5 of 1983](#); SI. 37 of 1983; SI. 42 of 1983; SI. 53 of 1985; Act [16 of 1985](#); SI. 29 of 1989; Act [10 of 1990](#); Act [3 of 1998](#)]

#### 1. Short title

This Act may be cited as the Pensions Act.

#### 2. Definitions

In this Act—

**"Pensionable office"** means:

- (a) in respect of service under the Government of Seychelles, an office which has been declared by the Minister\* by a notification published in the *Gazette*, to be pensionable. Such office may be declared in such notification to be pensionable with retrospective effect or during the tenure of such office by a particular person:

Provided that any office declared to be pensionable under this section may be declared at any time, by the Minister, by a notification published in the *Gazette*, to be no longer pensionable, due regard being had to existing rights;

- (b) in respect of other public service, an office which is a pensionable office under the law or regulations in force in such service;

**"pensionable emoluments"**—

- (a) in respect of service under the Government of Seychelles includes—

- (i) salary,
- (ii) personal allowance,
- (iii) house allowance,
- (iv) fees of office,
- (v) inducement allowance paid in respect of service on or after the first day of April, 1961, in pursuance of the Overseas Service Act, but does not include duty, entertainment or other allowance or any other emoluments whatever.

- (b) in respect of other public service, means emoluments which count for pension in accordance with the law or regulations in force in such service;

**"salary"** means the salary attached to an office;

\* The reference to the Minister in this Act is a reference to the Minister of Administration and Manpower (S.I. 29 of 1989).

"**personal allowance**" means a special addition to such salary, granted personally to the holder for the time being of the office;

"**house allowance**" means the estimated value of free quarters, or the allowance paid in lieu thereof to which an officer is entitled under the terms of his appointment, as determined in accordance with the provisions of regulation 8(2) in the schedule to this Act or any regulation hereafter made amending or substituted for the same;

"**fees of office**" means any fees paid out of the Treasury by way of salary which have been declared by the Minister, by notification published in the *Gazette*, to be pensionable:

Provided that the amount to be allowed for fees shall not exceed twenty-five *per centum* of the actual salary of the office;

"**public service**" means service in a civil capacity under the Government of Seychelles or the Government of the United Kingdom of Great Britain and Northern Ireland or the Government of India or of a British Dominion, Colony or Protectorate or a territory under a British Mandate and any such other service as the Minister may determine to be "public Service" for the purpose of any provision of this Act;

Provided that service as a Governor or High Commissioner of a British Dominion, Colony or Protectorate or a territory under British Mandate or as a Governor in India shall be deemed to be public service except for the purposes of computation of pension or gratuity and of [section 10](#) of this Act;

"**other public service**" means public service not under the Government of Seychelles;

"**Service of the Colony or service of the Republic**" means service in a civil capacity under the Government of Seychelles;

"**the Colony**" means the Colony of Seychelles;

### 3. President may make pension regulations

- (1) It shall be lawful for the Minister from time to time, to make, and when made, to vary, add to, and revoke regulations for the granting of pensions, gratuities and other allowances to persons who have been in the service of the Colony, or the service of the Republic or of both or to their heirs or legal representatives. Every such regulation when made, shall be laid before the People's Assembly and shall be published in the *Gazette*:

Provided that until varied or revoked by any such regulations, the regulations contained in the schedule shall be in force.

- (2) The said regulations and any regulations varying or revoking the same as aforesaid, shall have the same force and effect for all purposes as if they were contained in this Act and the term "this Act", shall in the following sections, be read and construed accordingly.
- (3) Any regulations made under this section may be given retrospective effect for the purpose of conferring a benefit upon or removing a disability attaching to any person.

### 4. Pensions not of right

- (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity, or other allowance under this Act, nor shall anything herein or in such regulation contained, limit the right of the Government of Seychelles to dismiss any officer without compensation.
- (2) Where it is established to the satisfaction of the Minister that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may be reduced or altogether withheld.

## 5. Service not qualifying for pension

- (1) No pension, gratuity or other allowance shall be granted to any officer in respect of any service while on—
- (2) Where, prior to the coming into force of this section, a person employed in the public service—
  1. in an office not being a pensionable office, has left the service on or before 31st December, 1978;
  2. in a pensionable office has left the service on or after 31st December, 1978 any period of service of such person while under the age of sixteen years shall be taken into consideration for the purpose of—
  3. determining the eligibility of such person to be paid any pension, gratuity or other allowance under the Act; or
  4. calculating the amount of such pension, gratuity or other allowance.

## 6. Circumstances in which pensions may be granted

- (1) No pension, gratuity or other allowance shall be granted to any officer except on his retirement from the public service in one of the following cases:—
  - (a) on or after attaining the age of fifty-five years, or in special cases with the approval of—
    - (i) the President on or after attaining the age of forty-five years; or
    - (ii) the Minister on the completion of twenty-five years of continuous service with the Government of Seychelles, whichever is the earlier.
  - (b) in the case of transfer to other public service, on or after attaining the age at which he is permitted by the law or regulations of the service in which he is last employed to retire on pension or gratuity;
  - (c) on the abolition of his office;
  - (d) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belongs, by which greater efficiency and economy can be effected;
  - (e) on medical evidence to the satisfaction of the Minister that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
  - (f) in the case of termination of service in the public interest as provided in this Act;
  - (g) in the case of non-commissioned officers and constables of the police force, on or after attaining the age of fifty years or, with the approval of the President at any time after attaining the age of forty-five. This provision shall be deemed to have come into operation on the first day of April, 1950;
  - (h) in the case of a designated officer, as defined in clause 1 of the agreement set out in the Schedule to the Overseas Act, if the officer's conditions are not fair and reasonable. This provision shall be deemed to have come into operation on first day of April, 1964.
- (2) Notwithstanding subsection (1) or any other written law, a person who is entitled to a pension, gratuity or other allowance under this Act shall,—
  - (a) in the case of a pension, be paid the pension on his attaining the age of 55 years;

- (b) in the case of gratuity or other allowance, be paid the gratuity or other allowance on his attaining the age of 55 years or on such earlier date as the President may in his absolute discretion decide.
- (3) Subsection (2) shall not apply to a person—
- (a) to whom any of the circumstances specified in subsection (1)(a) to (h) apply; or
  - (b) who is required to retire before attaining the age of 55 years by virtue of any other provision of this Act.

## 7. Retirement on grounds of public interest

Where an officer's service terminates on the ground that, having regard to conditions existing in the public service, the qualifications of the officer and all the other circumstances of the case, such termination is desirable in the public interest and a pension, gratuity or other allowance cannot otherwise be granted to him under the provisions of this Act, the President, may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks fit and proper, not exceeding in amount that for which the officer would be eligible if he retired from the public service in the circumstances described in paragraph (e) of [section 6](#).

## 8. Age of compulsory retirement

It shall be lawful for the Minister to require any officer to retire from the public service at any time on or after he has attained the age of forty-five years or on the completion by him of twenty-five years of continuous service in the employment of the Government of Seychelles.

## 9. Maximum pension grantable

- (1) A pension granted to an officer under this Act shall not exceed two-thirds of the highest pensionable emoluments drawn by him at any time in the course of his service under the Government of Seychelles.
- (2) Where the officer has been or is granted a pension or pensions in respect of other public service he may be granted the full pension for which he is eligible in respect of his service under the Government of Seychelles, but no person may, at any time, draw from the funds of the Government of Seychelles an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by such person at any time in the course of his service under the Government of Seychelles or in other public service:

Provided that where such a person receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purpose of this subsection to be four-thirds of its actual amount.

- (3) In a case falling under the limitation laid down by subsection (2), the amount of pension to be drawn from the funds of the Government of Seychelles shall be determined with due regard to the amount of any pension or pensions similarly to be drawn in respect of other public service.
- (4) For the purpose of the preceding subsections an additional pension granted in respect of injury shall not be taken into account, but where the officer is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed one-sixth of his highest pensionable emoluments at any time in the course of his public service by more than the sum by which the amount of his pension or pensions, apart from such additional pension, falls short of two-thirds of such highest emoluments.

## 10. Re-employment, effect on gratuity or pension

- (1) If any officer to whom a gratuity without pension has been granted under this Act is reappointed to any office in the service of the Colony or the service of the Republic, his previous service may be taken into account for the purposes of pension if he refunds the gratuity on such reappointment.
- (2) If an officer to whom a pension has been granted under this Act is appointed to another office in the public service, the payment of his pension may, if the Minister thinks fit, be suspended during the period of his re-employment.

## 11. Pensions, etc., not to be assignable

No pension, gratuity or other allowance granted under this Act shall be assignable or transferable or liable to be attached, sequestered or levied upon, for or in respect of any debt or claim whatsoever other than a debt due to the Government.

## 12. Pensions, etc., to cease on bankruptcy

If any officer to whom a pension or other allowance has been granted under this Act, is adjudicated a bankrupt or is declared insolvent by judgment of the court, then such pension or allowance shall forthwith cease:

Provided always that in any case where a pension or allowance ceases by reason of the bankruptcy or insolvency of the pensioner, it shall be lawful for the Minister from time to time, during the remainder of such pensioner's life, or during such shorter period or periods either continuous or discontinuous, as the Minister shall think fit, to cause all or any part of the moneys to which such pensioner would have been entitled by way of pension or allowance had he not become a bankrupt or insolvent, to be paid to or applied for the maintenance and personal support or benefit of all or any, to the exclusion of the other or others, of the following persons, namely such pensioner and any wife, child or children of his, in such proportions and manner as the Minister thinks proper and such moneys shall be paid or applied accordingly.

## 13. Pensions, etc., to cease on conviction

If any officer to whom a pension or other allowance has been granted under this Act is sentenced to a term of imprisonment by any competent court, whether within or without Seychelles, for any crime or offence, then in every such case it shall be lawful for the Minister to order that such pension or allowance shall forthwith cease and after such order, such pension or allowance shall not be paid:

Provided always that the pension or allowance shall be restored with retrospective effect, in the case of a person who after conviction at any time receives a free pardon:

And provided further that where a pension or allowance ceases for the reason aforesaid, it shall be lawful for the Minister, to cause all or any part of the moneys to which the pensioner would have been entitled by way of pension or allowance, to be paid to or applied for the benefit of any wife, child or children of the pensioner, or after the expiration of his sentence, also for the benefit of the pensioner himself, in the same manner precisely and subject to the same qualifications and restrictions as in the case of bankruptcy or insolvency hereinbefore provided.

## 14. Pensions, etc., to cease on accepting certain appointments

If any officer to whom a pension or other allowance has been granted under this Act becomes either a director of any company the principal part of whose business is in any way directly concerned with Seychelles, or an officer or servant employed in Seychelles by any such company, without in every such case the permission of the Minister in writing first had and obtained, then in every such case, it shall be lawful for the Minister to direct that such pension or allowance shall forthwith cease:

Provided always, that it shall be lawful for the Minister on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in Seychelles, as the case may be, to give directions for the restoration of such pension or allowance with retrospective effect, if he shall see fit, to such a date as he shall specify.

## 15. Gratuity when officer dies in service or after retirement

- (1) (a) Where an officer holding a pensionable office who is not on probation or agreement, dies while in the service of the Colony or the service of the Republic it shall be lawful for the Minister to grant to his heirs or legal representatives a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity, if any, whichever is the greater, and such gratuity shall be deemed for all purposes to form part of the estate of such deceased officer.
- (b) For the purposes of this subsection—
  - (i) "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 paragraph (e) of [Section 6](#);
  - (ii) "commuted pension gratuity" means the gratuity, if any, which might have been granted to the officer under Regulation 17 of the schedule if his public service had been wholly in the Colony or in the Republic or in both and if he had retired at the date of his death in the circumstances described in paragraph (e) of [Section 6](#) and elected to receive a gratuity and reduced pension.
- (2) Where any such officer to whom a pension, gratuity or other allowance has been granted under this Act dies after retirement from the service of the Colony or service of the Republic, 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, it shall be lawful for the Minister to grant to his heirs or legal representatives a gratuity equal to the deficiency and such gratuity shall be deemed for all purposes to form part of the estate of the deceased officer.
- (3) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section, are payable under the Colonial Superannuation Scheme in respect of such death.

## 16. Gratuity when pensioner dies

Whenever a public officer shall die, to whom a pension under the pension laws has been granted (with or without the option of a gratuity and reduced pension), it shall be lawful for the Minister to order that a gratuity of one month's pension from the day following the date of his death, shall be paid to his heirs or legal representatives and such gratuity shall be deemed for all purposes to form part of the estate of such deceased officer.

## 17. Minister's decision final

- (1) The decision of the Minister on any question which arises as to the application of sections [15](#) and [16](#) to any person or as to the amount to be paid to any person, shall be final.
- (2) Any payment made in pursuance of sections [15](#) and [16](#) shall be valid against all persons whatever, and all persons acting under the provisions of the said sections shall be absolutely discharged from all liability in respect of any moneys duly paid or applied by them.

## 18. Pensions etc., to dependants when an officer is killed on duty

- (1) Where an officer holding a pensionable office who is not serving on probation or agreement dies as the direct result of injuries received—
- (a) in the actual discharge of his duty, and
  - (b) without his own default, and
  - (c) on account of circumstances specifically attributable to the nature of his duties, while in the service of the Colony or the service of the Republic, it shall be lawful for the Minister, to grant, in addition to the grant if any made to his heirs or legal representatives in accordance with [section 15](#)—
    - (i) if the deceased officer leaves a widow, a pension to the widow while unmarried and of good character, at a rate not exceeding ten-sixtieths of his pensionable emoluments at the date of the injury or ten pounds a year whichever be the greater, and also a gratuity to each child alive and under the age of fifteen years at the date of the father's death, not exceeding one pound for each year that the child's age on his birthday immediately preceding his father's date was less than fifteen years, and a gratuity not exceeding fifteen pounds to any posthumous child: Provided that the gratuities so granted shall not in the aggregate be less than ten pounds nor more than sixty pounds;
    - (ii) if the officer's wife predeceases him or if no pension is granted to her under the preceding paragraph and he leaves children who would have been eligible for gratuity if a pension had been granted to the widow, gratuities of twice the amount of the gratuities for which they would have been eligible in such circumstances;
    - (iii) if the deceased officer does not leave a widow and his mother was wholly or mainly dependent on him for her support, a pension to the mother while of good character and without adequate means of support, at a rate not exceeding the rate of the pension which might have been granted to his widow:  
Provided that—
      - (a) if 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
      - (b) if the mother is not a widow and it appears that the deceased's father is in a position to support her such pension shall cease from such date as the Minister may determine.
- (2) When an officer who is not qualified for either pension or gratuity dies in the circumstances mentioned in subsection (1), it shall be lawful for the Minister to grant the pension or gratuities which might have been granted if his case had fallen under subsection (1).
- (3) An officer who dies as a result of injuries received while travelling by air in pursuance of official instructions shall be deemed to have died in the circumstances detailed in paragraphs (a) and (c) of subsection (1):

Provided that in such a case and if the provision of paragraph (b) is also satisfied the rates of pension prescribed in paragraph (i) of that subsection shall be fifteen-sixtieths.

## 19. Application of Act

The provisions of this Act shall apply to all officers serving in the Colony or in the Republic or in both, at or after the commencement of the Act, and to all those who having served in the Colony have, before the commencement of the Act, been transferred to other public service and were still serving at the date of the commencement of this Act.

Provided that nothing herein contained or under any regulations framed under this Act shall be deemed to diminish the rights acquired by any person under the Pensions Act 1902 and 1928.

## 20. War services to count for pension purposes

Where an officer shall have served with His Majesty's Forces in time of war, or in the Royal Pioneer Corps, and before so serving shall have been employed in the public service, the following provisions shall have effect:—

- (i) During the period of such service in His Majesty's Forces or in the Royal Pioneer Corps, including any period after the termination of the war (in this section referred to as "military service"), he shall be deemed, for the purposes of this Act, to have been on leave on full salary from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service.
- (ii) During any period between his leaving the public service for the purpose of serving in His Majesty's Forces or in the Royal Pioneer Corps and the date of his commencing military service, he shall, for the purposes of this Act be deemed to be on leave without pay, not granted on grounds of public policy, from the public service in which he was last employed, and to have held the substantive office last held by him in that service, prior to military service; and during any period between the termination of his military service and the date of his re-entering the public service he shall, for the said purposes, be deemed to be on leave as aforesaid from the service, and to have held the substantive office, in which he is re-employed:

Provided that—

- (a) this section shall not apply when either period mentioned in paragraph (ii) of this section exceeds six months, or such longer period as the Minister, may in any special case determine; or if the officer fails, after serving with His Majesty's Forces or in the Royal Pioneer Corps, to re-enter the public service otherwise than in circumstances in which he would be permitted, under the law applicable to the public service in which he is last employed prior to military service, to retire on pension or gratuity, such circumstances arising not later than the expiration of six months, or such longer period as may be determined as aforesaid, after the termination of his military service;
- (b) if during any period mentioned in paragraph (i) of this section the officer shall have qualified for pension, or received emoluments in lieu of pension rights, actually in respect of military service, paragraph (i) of this section shall, as respects that period, have effect as if the words "leave without salary not granted on grounds of public policy" were substituted for the words "leave on full salary";
- (c) if during his military service the officer shall be injured or killed, he shall not, for the purposes of [section 18](#) of this Act and regulation 13 in the Schedule to this Act, be deemed to have been injured or killed in the discharge of his duty;
- (d) the provisions of this section which require that the officer shall be deemed to have held a specified office and to have been on leave from a specified service shall not apply in respect of any period during which he shall actually have held any other substantive office and have been on leave from any public service;