THE PENSIONS' ACT, 1871

ARRANGEMENT OF SECTIONS

PREAMBLE

I.—PRELIMINARY.

SECTIONS

1. Short title.

Extent of Act.

2. [*Repealed.*].

3. Interpretation-Section.

3A. Definition.

II.—RIGHTS TO PENSIONS 4. Bar of suits relating to pensions.

5. Claims to be made to collector, Deputy Commissioner or other authorised officer. 6. Civil Court empowered to take cognizance of such claims.

7. Pensions for lands held under grants in perpetuity.

III.—MODE OF PAYMENT.

8. Payment to be made by Deputy Commissioner, Collector or other authorised officer. 9. Saving of rights in respect of the recovery of land-revenue.

10. Commutation of pensions.

IV.—MISCELLANEOUS.

11. Exemption of pension from attachment.

12. Assignments, &c., in anticipation of pension, to be void.

12A.Nomination by pensioner to receive moneys outstanding on account of pension. 13. Reward to informers.

14. Power to make rules.

15. Power of Central Government to make rules.

16. Laying of rules.

[*SCHEDULE.*][*Repealed*.].

THE PENSIONS' ACT, 1871

ACT NO. 23 OF 1871

[8*th August*, 1871.]

An Act to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue.

Preamble.—WHEREAS it is expedient to consolidate and amend the law relating to pensions and grants by Government of money or land-revenue; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. Short title.—This Act may be called the "[1]Pensions' Act, 1871":

Extent of Act.—[2][In so far as it relates to Union pensions, it extends to the whole of India and in so far as it relates to other pensions, it extends] to [3][the whole of India except [4][the territories which, immediately before the 1st November, 1956, were comprised in Part B States]].

[5]* * * * *

[6]* * * * *

STATE AMENDMENT

Karnataka

In section 1, for the entry under the heading "Extent of Act", the following entry shall be substituted, namely:-

"It extends to the whole of the State of Karnataka."

[*Vide* Karnataka Act 23 of 1979, s. 4]

2.[*Enactments repealed Saving of Rules.*] *Rep. by the Repealing Act,* 1938(1 *of* 1938), s. 2 *and the Schedule.*

3. Interpretation-section.—In this Act, the expression "grant of money or land-revenue" includes anything payable on the part of Government in respect of any right, privilege, perquisite or office.

[7][**3A.Definition.—**The expression "the appropriate Government" means, in relation to[8][Union] pensions, the Central Government, and in relation to other pensions, [9][the State Government.]

II.—RIGHTS TO PENSIONS.

4. Bar of suits relating to pensions.—Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the [10][Government or by] any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted.

1.It has been amended in its application to U. P. by U. P. Act 12 of 1922. Rep. in part in West Bengal by West Bengal Act 7 of 1948.

The Act has been extended to the Union territories and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and the First Schedule (w.e.f. 1-7-1965) and extended to the whole of the Union territory of Lakshadweep by Reg. 8 of 1965, s. 3 and the Schedule (w.e.f. 1-10-1967).

The Act has been repealed in its application to Bellary District by Mysore Act 14 of 1955.

2.Subs. by Act 20 of 1982, s. 2, for "It extend".

3.Subs. by the A.O.1950, for "all the Provinces of India" which had been subs. by the A.O.1948, for "the whole of British India".

4.Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part B States".

5.The words "And it shall come into force on the date of the passing thereof" rep. by Act 10 of 1914, s. 3 and the Second Schedule.

6.The words "but not so as to affect any suit in respect of a pension or grant of money or land-revenue which may have been instituted before such date" rep. by Act 12 of 1891, s. 2 and the First Schedule.

7.Ins. by the A.O. 1937 (w.e.f. 1-4-1937).

8.Sub. by the A.O. 1950, for "federal" (w.e.f. 26-1-1950).

9. Subs. by the A.O. 1950, for "Provincial Government".

10.Subs. by the A.O. 1950, as amended by C.O. 29, for "British or".

5. Claims to be made to Collector, Deputy Commissioner, or other authorized officer.—Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorized in this behalf by the[1][appropriate Government], and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the [1][appropriate Government], from time to time prescribe in this behalf.

STATE AMENDMENT

Karnataka

Amendment of section 5.—In section 5, of the words, "Any person having a claim", the words "Save as otherwise provided in any law or any rule regulating payment of pension to persons appointed to public services and posts in connection with the affairs of the State, any person having a claim" shall be substituted and for the words "as the Chief Revenue Authority may, subject to the general control of the appropriate Government", the words "as the appropriate Government may" shall be substituted;

[*Vide* Karnataka Act 23 of 1979, s. 4]

6. Civil Court empowered to take cognizance of such claims.—A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

7. Pensions for lands held under grants in perpetuity.—Nothing in sections 4 and 6 applies to—

(*1*) any inam of the class referred to in the first section of Madras Act No. IV of 1862[2];

(*2*) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

III.—MODE OF PAYMENT.

8. Payment to be made by Collector, Deputy Commissioner or other authorized officer.—All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer, subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue-Authority.

STATE AMENDMENT

Karnataka

Amendment of section 8.—In section 8, for the words "All pensions or grants" the words "Save as otherwise provided in any law or any rule regulating grant and payment of pension to persons appointed to public services and posts in connection with the affairs of the State, all pensions or grants, shall be substituted and for the words "Chief Controlling Revenue Authority" the words "appropriate Government" shall be substituted;

[*Vide* Karnataka Act 23 of 1979, s. 4]

1. Subs. by the A.O. 1937, for "Local Government." (w.e.f. 1-4-1937).

2. *I.e.,* "inams of the classes described in clase 1, s. 2, [Mad.] Regulation 4 of 1831, which have been, or shall be, enfranchised by the Inam Commissioner and converted into freeholds in perpetuity, or into absolute freeholds in perpetuity". The classes so described are "hereditary or personal grants of money or of land-revenue, however, denominated, conferred by the authority of the Governor in Council [or which, having been made by any Native Govt. have been confirmed or continued by the British Govt.—Act 31 of 1836] in consideration of services rendered to the State or in lieu of resumed offices or privileges, or of zamindaris or paleiyams forfeited or held under attachment or management by the officers of Govt., or as a yaumia or charitable allowance, or as a pension".

9. Saving of rights in respect of the recovery of land-revenue.—Nothing in sections 4 and 8 shall affect the right of a grantee of land-revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

10. Commutation of pensions.—The [1][appropriate Government] may, with the consent of the holder, order the whole or any part of his pension or grant of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

IV.—MISCELLANEOUS.

[2]**11. Exemption of pension from attachment.—**No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance,

and no money due or to become due on account of any such pension or allowance,

shall be liable to seizure, attachment or sequestration by process of any Court [3]***, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

[4][This section applies [3]*** also to pensions granted or continued[5], after the separation of Burma from India, by the Government of Burma.]

12. Assignments, &c., in anticipation of pension, to be void.—All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section 11, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

[6]**[12A. Nomination by pensioner to receive moneys outstanding on account of pension.—** Notwithstanding anything contained in section 12 or in any other law for the time being in force,—

(*a*) any person to whom any pension mentioned in section 11 is payable by the Government of India or out of the Consolidated Fund of India (such person being hereinafter referred to as the pensioner) may nominate any other person (hereinafter referred to as the nominee), in such manner and in such form as may be prescribed by the Central Government by rules, to receive after the death of the pensioner, all moneys payable to the pensioner on account of such pension at, before or after the date of such nomination and which remain unpaid immediately before the death of the pensioner; and

(*b*) the nominee shall be entitled, on the death of the pensioner, to receive, to the exclusion of all other persons, all such moneys which have so remained unpaid:

Provided that if the nominee predeceases the pensioner, the nomination shall, so far as it relates to the right conferred upon the said nominee, become void and of no effect:

Provided further that where provision has been duly made in the nomination, in accordance with the rules made by the Central Government, conferring upon some other person the right to receive all such moneys, which have so remained unpaid, in the event of the nominee predeceasing the pensioner, such right shall, upon the decease as aforesaid of the nominee, pass to such other person.]

1. Subs. by the A.O. 1937, for "Local Government."

2. *See* also s. 60, clause (*g*) of the Code of Civil Procedure 1908 (Act 5 of 1908).

3. The words "in Part A States and Part C States" omitted by the Adaptation of Laws (No. 2) Order, 1956. The words and letters "Part A States and Part C States" were subs. by the A.O. 1950, for "the Provinces" which had been subs. by the A.O. 1948, for "British India".

4. Ins. by the A. O. 1937 (w.e.f. 1-4-1937).

5. *I.e.,* on or after the1st April, 1937.

6. Ins. by Act 20 of 1982, s. 3.

13. Reward to informers.—Whoever proves to the satisfaction of the [1][appropriate Government] that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

14. Power to make rules.—[2][In each State] the Chief Controlling Revenue Authority may, with the consent of the [1][appropriate Government], from time to time make rules consistent with this Act respecting all or any of the following matters:—

(*1*) the place and times at which, and the person to whom, any pension shall be paid;

(*2*) inquiries into the identity of claimants;

(*3*) records to be kept on the subject of pensions;

(*4*) transmission of such records;

(*5*) correction of such records;

(*6*) delivery of certificates to pensioners;

(*7*) registers of such certificates;

(*8*) reference to the Civil Court, under section 6, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government,

and generally for the guidance of officers under this Act.

STATE AMENDMENT

Karnataka

Amendment of section 14.-In section 14, for the words, "Chief Controlling Revenue Authority may with the consent of the appropriate Government", the words "appropriate Government may" shall be substituted.

[*Vide* Karnataka Act 23 of 1979, s. 4]

[3][**15. Power of Central Government to make rules.—**The Central Government may, by notification in the Official Gazette, make rules to provide for all or any of the following matters, namely: —

form in which any nomination may be made under section 12A and the manner and form in which such nomination may be cancelled or varied by another nomination;

(*b*) the manner in which provision may be made, for the purposes of the second proviso to section 12A, in any such nomination for conferring on some person other than the nominee the right to receive moneys payable to the nominee if such nominee predeceases the pensioner.

16. Laying of rules.—Every rule made by the Central Government under this Act and every rule made under section 14 by a Chief Controlling Revenue Authority with the consent of the Central Government, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1.Subs. by the A.O. 1937, for "L.G".

2.Ins., *ibid.*

3.Ins. by Act 20 of 1982, s. 3.