

The Agreement was
previously published
as Sudan No. 1 (1974),
Cmnd. 5520

SUDAN



Treaty Series No. 19 (1975)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Democratic Republic of
the Sudan

concerning Public Officers' Pensions

(The Public Officers' Pensions (Sudan) Agreement 1973)

Khartoum, 15 November 1973

[The Agreement entered into force on 24 December 1973]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 1975*

LONDON

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12p net

Cmnd. 5903

**AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE
SUDAN CONCERNING PUBLIC OFFICERS' PENSIONS**

The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Government of the United Kingdom") and the Government of the Democratic Republic of the Sudan (hereinafter referred to as "the Government of the Sudan") have agreed as follows:

ARTICLE 1

Interpretation

In this Agreement, except where the context otherwise requires:

- (a) "the appointed day"^{*} means the day mutually agreed between the Government of the United Kingdom and the Government of the Sudan;
- (b) "official" means a person who in the opinion of the Government of the United Kingdom entered the service of the Sudan in a pensionable capacity before 17 July 1954, being a person who having retired from or died in public service on or before 1 April 1971 at that date or the date of his death, as the case may be, was not a national of the Sudan and was a citizen of the United Kingdom and Colonies or British subject without citizenship or a citizen of an independent Commonwealth country or a person to whom immediately before the appointed day or, if he is then dead, at the date of his death the Pensions (Increase) Acts of the United Kingdom applied, or having retired from public service or having died in public service after 1 April 1971 was not or is not at the date of his retirement or death, as the case may be, a national of the Sudan and was or is at that date a citizen of the United Kingdom and Colonies or a British subject without citizenship or a citizen of an independent Commonwealth country or a person to whom the Pensions (Increase) Acts of the United Kingdom applied or apply immediately after his retirement or at the date of his death;
- (c) "pension" means any pension, or gratuity, or any retiring allowance or other like benefit, or increase of pension, payable under the pension laws by the Government of the Sudan to or in respect of any official, or to the widow or child of any official, or to his legal personal representative;
- (d) "pensionable emoluments" means the salary and any other emoluments taken into account in determining the pension of an official;

** The "appointed day" was 1 January 1974.*

(e) "pensions laws" means:

- (i) any law, regulation or administrative direction providing for the payment of pensions to officials in respect of public service or to the widows and children of such officials and in force in the Sudan at any time prior to the signature of this Agreement and enacted prior thereto, and includes the Sudan Government Agency in London Superannuation Scheme for Staff 1949 and the Expatriate Officials Compensation Ordinance;
- (ii) any other law, regulation or administrative direction providing for the payment of pensions accepted by the Government of the United Kingdom and the Government of the Sudan for the purposes of this Agreement;
- (f) "public service" means service in a civil capacity under the Government of the Sudan or any of its predecessor Governments or any Government upon retirement from the service of which a pension may be granted by the Government of the Sudan under the pension laws, or any other service agreed between the Government of the United Kingdom and the Government of the Sudan to be public service for the purposes of this Agreement;
- (g) "Republic service" means public service under the Government of the Sudan on or after 1 January 1956;
- (h) "the Sudan element" in relation to a pension means that proportion of the pension which the total pensionable emoluments enjoyed by the official during his Republic service bears to the total pensionable emoluments enjoyed by him throughout his public service in the Sudan which have been taken into account in determining the amount of that pension.

ARTICLE 2

Assumption of Responsibility by the Government of the United Kingdom

As from the appointed day the Government of the United Kingdom shall assume from the Government of the Sudan the responsibility for the control, administration and payment of pensions which have been awarded before the appointed day and for the award, control, administration and payment of pensions which would fall to be awarded on or after the appointed day, to or in respect of officials or the widows or children or personal representatives of officials in relation to the public service of such officials in the Sudan.

ARTICLE 3

Obligations of the Government of the United Kingdom

The Government of the United Kingdom undertake:

- (a) that they shall award, control, administer and pay the pensions referred to in Article 2 of this Agreement to or in respect of the persons

concerned in accordance with the principles and rules contained in the pension laws, with such modifications as may be necessary in consequence of the transfer of responsibility under this Agreement, or in accordance with such other principles and rules as the Government of the United Kingdom consistently with the next following paragraph may from time to time determine;

- (b) that, (apart from any modifications arising from the pensions being payable out of public moneys of the United Kingdom) they shall not alter any provision contained in the pension laws, other than any provision (express or implied) relating to the currency or method of payment of a pension, so as to make such provision less favourable to any beneficiary than the provision applicable to him on the appointed day: provided that if a beneficiary elects to have any provision applied to him, that provision shall be taken to be more favourable to him;
- (c) that if the Government of the Sudan should be judged by the order of a competent court of law having jurisdiction in the Sudan to be liable to pay to or in respect of an official or widow or child or personal representative of an official any sum in respect of a pension for which the Government of the United Kingdom have assumed responsibility under this Agreement, the Government of the United Kingdom shall repay to the Government of the Sudan any sum paid to or in respect of such person for the purpose of complying with the order of the court; but in this event the Government of the United Kingdom shall be free to reduce by corresponding sums, or totally to withhold, any payments of the same pension to or in respect of that person which would otherwise fall to be made by them under this Agreement.

ARTICLE 4

Obligations of the Government of the Sudan

The Government of the Sudan undertake :

- (a) that they shall remain responsible for any instalments of pension granted to or in respect of an official or a widow or child or personal representative of an official which remain unpaid on the appointed day;
- (b) that they shall as from the appointed day relinquish responsibility for the award, control, administration and payment of any pension to or in respect of an official or a widow or a child or personal representative of an official otherwise than in accordance with the terms of this Agreement;
- (c) that they shall pay to the Government of the United Kingdom, in accordance with such arrangements as may be mutually agreed between the two Governments, in respect of any pension awarded before the appointed day to or in respect of an official or to a widow or child or personal representative of an official or which may be awarded on or after the appointed day to a widow or child of an official, a sum repre-

senting the cost, if any, of the Sudan element of such pension, actuarially determined by an actuary nominated by the Government of the United Kingdom and acceptable to the Government of the Sudan, less a sum agreed between the two Governments as representing the tax which the Government of the Sudan would have received in respect of the Sudan element of such pension;

- (d) that they shall, whenever requested to do so by the Government of the United Kingdom, supply to that Government such information in connection with the operation of the arrangements contained in this Agreement as may be specified in such request.

ARTICLE 5

Modification

If the Government of the United Kingdom and the Government of the Sudan agree that, in their application to or in respect of any official, or widow, child or personal representative of an official the foregoing provisions of this Agreement shall be subject to modifications, additions or exceptions then those provisions shall have effect accordingly.

ARTICLE 6

Determination of Questions

Any question arising with respect to the award, payment, withholding of, or otherwise in relation to, any benefit, responsibility for which is assumed by the Government of the United Kingdom under this Agreement, shall be decided by that Government, and the Government of the Sudan shall abide by such decision.

ARTICLE 7

Entry into Force

Each of the Parties to this Agreement shall notify the other Party in writing as soon as it has completed the domestic legislation and other arrangements necessary to enable it to carry out the Agreement, and this Agreement shall enter into force on the day following the later of these two notifications.⁽¹⁾

ARTICLE 8

Citation

This Agreement may be cited as the Public Officers' Pensions (Sudan) Agreement 1973.

(1) The Agreement entered into force on 24 December 1973.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done in duplicate at Khartoum this day, 15th November 1973, in the English language.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

GORDON ETHERINGTON-SMITH

For the Government of the Democratic Republic of the Sudan:

A. ABDULLA

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