

## 20. THE FORMER SECRETARY OF STATE SERVICE OFFICERS (CONDITIONS OF SERVICE) ACT, 1972

An Act to provide for the variation or revocation of the conditions of service of former Secretary of State Service Officers in respect of certain matters and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:-

### 1. Short title and commencement.-

- (1) This Act may be called the Former Secretary of State Service Officers (Conditions of Service) Act, 1972.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

### 2. Definitions. -In this Act, unless the context otherwise requires, -

- (a) "appointed day" means the date on which this Act comes into force;
- (b) "former Secretary of State Service officer" means a person referred to in sub-clause (a) or sub-clause (b) of clause (1) of article 312A of the Constitution;
- (c) "I.C.S. member of the Indian Administrative Service" means a person who was appointed to the Indian Civil Service and who in the in India known as the India Civil Service and who on the appointed day is a member of the Indian Administrative Service;
- (d) "I.P. member of the Indian Police Service" means a person who was appointed to the Police Service of the Crown in India known as the Indian Police and who on the appointed day is a member of the Indian Police Service;
- (e) "pension" has the meaning assigned to it in clause (2) of article 366 of the Constitution.

### 3. Conditions of service of ICS members of the Indian Administrative Service.- Subject to the provisions of this Act, on and from the appointed day,-

- (a) The conditions of service as respect,-
  - (i) remuneration;
  - (ii) leave; and

(iii) pension;

(b) the rights as respects disciplinary matters, and

(c) the conditions of service and the rights as respects all others matters, of the ICS members of the Indian Administrative Service shall be the same as those of the other members of that Service and accordingly and subject as afore-said the provisions of the All-India Services Act, 1951 (61 of 1951) and the rules and regulations made or deemed to have been made thereunder; as in force from time to time, shall apply to and in relation to the I.C.S. members of the Indian Administrative Service as they apply to and in relation to the other members of that Service

**4. Conditions of Service of I.P. members of the Indian Police Service.-** Subject to the other provisions of this Act, on and from the appointed day,-

(a) the conditions of service as respects,-

(i) remuneration;

(ii) leave; and

(iii) pension;

(b) the rights as respects disciplinary matters, and

(c) the conditions of service and the rights as respects all other matters, of the I.P. members of the Indian Police Service shall be the same as those of the other members of that Service and accordingly and subject as aforesaid, the provisions of the All-India Services Act, 1951 and the rules and regulations made or deemed to have been made thereunder, as in force from time to time, shall apply to and in relation to the I.P. members of the Indian Police Service as they apply to and in relation to the other members of that Service.

**5. Pay of I.C.S. members of Indian Administrative Service and I.P. members of Indian Police Service.-** Notwithstanding anything contained in section 3 or section 4, an I.C.S. member of the Indian Administrative Service or an I.P. member of the Indian Police Service, as the case may be holding a post specified in the Schedule to this Act or a post declared by the Central Government to be equivalent to such post shall, for so long as he holds that post, be entitled to draw the pay indicated against the post in the said Schedule.

**6. Retirement of I.C.S. members of Indian Administrative Service and I.P. members of Indian Police Service.-** Notwithstanding anything contained in section 3 or section 4,-

(a) an I.C.S. member of the Indian Administrative Service, unless his service has been extended before the appointed day in accordance with the rules and regulations then applicable or is extended on or after that day in

accordance with the rules and regulations applicable to the other members of the Indian Administrative Service, shall retire compulsorily,-

- (i) When he attains the age of fifty-eight years before the expiry of six months from the appointed day, on the date of expiry of the said period of six months or on the date on which he shall retire compulsorily in accordance with the rules applicable to him immediately before the appointed day, whichever date is earlier;
- (ii) in any case, on his attaining the age of fifty-eight years;
- (b) the Central Government shall have and shall be deemed always to have had the power to require an I.C.S. member of the Indian Administrative Service or an I.P. Member of Indian Police Service, in consultation with the Government of the State on whose cadre he is borne and after giving to such member at least three months' notice in writing, to retire in public interest from service on the date on which such member completes thirty years of qualifying service or on attaining fifty years of age or on any date thereafter to be specified in the notice;
- (c) an I.C.S. member of the Indian Administrative Service or an I.P. member of the Indian Police Service may, after giving three months' previous notice in writing to the Government of the State on whose cadre he is borne, retire from service on any date to be specified in the notice if he has completed thirty years of qualifying service or has attained the age of fifty years:

Provided that no member under suspension shall retire from service except with the specific approval of the Government of the State on whose cadre he is borne.

*Explanation.-* For the purposes of clause (b) and clause (c), "qualifying service" means service qualifying for purposes of pension.

**7. Pension of I.C.S. members of Indian Administrative Service.-** Notwithstanding anything contained in section 3,-

- (a) an I.C.S. member of the Indian Administrative Service shall, subject to the provisions of section 8 and subject to the same provisions as are applicable for the time being in the case of other members of the Indian Administrative Service in regard to the right of the Central Government to withdraw the whole or any part of pension or to order recovery of pension and the same conditions for grant of retirement benefits, be entitled on his retirement from service in accordance with the provisions of section 6, to receive by way of annuity rupees thirteen thousand three hundred and thirty three and one-third;
- (b) no death-cum-retirement gratuity benefits shall be available to or in respect of an I.C.S. Member of the Indian Administrative Service unless such member has exercised his option for such benefits before the appointed day in accordance with the order of the Central Government on that behalf and the

benefits admissible to or in relation to an I.C.S. member of the Service who so exercised his option shall be subject to the conditions specified in the said orders and to the same conditions for grant of retirement benefits as are applicable for the time being in the case of other members of the Indian Administrative Service.

- (c) no family pension benefits shall be admissible in relation to an I.C.S. member of the Indian Administrative Service unless such member exercised his option in respect of such benefits before the appointed day in accordance with the orders of the Central Government in that behalf and the benefits admissible in relation to I.C.S. member of in service who so exercised his option shall be subject to the conditions specified in the said orders.
- (d) the Provident Fund account of an I.C.S. member of the Indian Administrative Service shall be credited, on his retirement on previous death, with the same amount, if any, as would have been credited by way of contribution in accordance with the rules in force immediately before the appointed day.

**8. Pension payable to former Secretary of State Service Officers in Indian currency only.-** (1) No former Secretary of State Service Officer shall be entitled, or be deemed ever to have been entitled, to claim-

- (a) pension in Sterling; or
- (b) that his pension shall be paid outside India; or
- (c) where his pension was expressed in Sterling or a fixed Sterling minimum was applicable in respect of the pension payable to him, that his pension shall be computed in the Rupee equivalent of the amount fixed in Sterling at a rate of exchange exceeding the rate of rupees thirteen and one-third to the Pound Sterling.

<sup>1</sup>Provided that in relation to every former Secretary of State Service officer who, having been in service on the 1st day of February, 1921, and domiciled in India on the date, is entitled immediately before the appointed day to claim his pension computed in the rupee equivalent of the amount fixed in sterling at a rate of exchange of rupees fifteen to a pound sterling, clause (c) shall have effect as if for the words "thirteen and one-third" the word "fifteen" was substituted:

<sup>1</sup>Provided further that every former Secretary of State Service Officer whose pension was expressed in sterling or in respect of whose pension a fixed sterling minimum was applicable, and who, immediately before the appointed day, is a foreigner having taken up permanent residence outside India, shall, so long as he continues to be a foreigner permanently residing outside India, be allowed to convert the annuity of rupees thirteen thousand three hundred and thirty-three and one-third or the annuity actually payable to him in rupees whichever is less, into pound sterling

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<sup>1</sup>Inserted vide Amendment Act of 1975 (Act 24 of 1975) enacted on 12.05.1975.

at the rate of rupees thirteen and one-third to a pound sterling and the annuity so converted into pound sterling shall be paid outside India.

<sup>2</sup>Explanation 1.- Nothing contained in the foregoing proviso shall be deemed to entitle any former Secretary of State Service officer to claim conversion of amounts, representing the annuity or the commuted value thereof, already drawn in rupees before the commencement of the Former Secretary of State Service Officers (Conditions of Service) Amendment Act, 1975, into pound sterling.

<sup>2</sup>Explanation 2.- In this sub-section, the expression "foreigner" means a person who is not a citizen of India.

8(2) Notwithstanding any judgement, decree or order of any court, every former Secretary of State Service officer <sup>3</sup> [not being an officer to whom the first proviso or the second proviso to sub-section (1) applies,] who has been paid the rupee equivalent or, as the case may be, the pound sterling equivalent of his pension by calculating such pension with reference to a rate of exchange exceeding the rate of exchange of Rupees thirteen and one-third to the Pound Sterling, shall refund to the Central Government, or as the case may be, the State Government, the sum by which the amount paid to him exceeds the amount which would have been payable to him if the calculation had been made at the rate of exchange of Rupees thirteen and one-third to the Pound Sterling.

8(3) For the removal of doubts, it is hereby declared that the provisions of sub-sections (1) and (2) shall apply to a former Secretary of State Service officer who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner as they apply to other former Secretary of State Service officers.

#### **9. Power of Central Government to adopt certain rules, regulations and orders.-**

9(1) For the purpose of bringing the provisions of any rules and regulations made or deemed to have been made under the All India Services Act, 1951 or any rules, regulations or orders (including any other instrument having the force of Law) applicable immediately before the appointed day to or in relation to former Secretary of State Service officers into accord with the provisions of this Act, the Central Government may, before the expiration of two years from the appointment day, by order published in the Official Gazette, make such adaptations and modifications of such rules, regulations or orders, whether by way of repeal or amendment as may be necessary.

9(2) The provisions of sub-section (1) shall be in addition to and not in derogation of any power under any other law to amend or repeal the rules, regulations and orders referred to in that sub-section.

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<sup>2</sup> Inserted vide Amendment Act of 1975 (Act 24 of 1975) enacted on 12.05.1975

<sup>3</sup> Inserted vide Amendment Act of 1975 (Act 24 of 1975) enacted on 12.05.1975

**10. Power to construe rules, regulations and orders.-** Notwithstanding that no provision or insufficient provision has been made under section 9 for the adaptation of any rule, regulation or order referred to in that section, any court, tribunal or authority, required or empowered to enforce such rule, regulation or order may construe it with such modifications as may be necessary to bring it into accord with the provisions of this Act.

<sup>4</sup>10A.(1) If the Central Government is satisfied that the conditions of service as respects any matter applicable to or in relation to, any class or category of former Secretary of State Service officers under section 6,7 or 8 or as respects any benefits by way of compensation for the increase in cost of living or any other reason, have become less favourable than those applicable to or in relation to any corresponding class or category of other officers of the Indian Administrative Service, or the Indian Police Service or, as the case may be, any comparable service, it may, notwithstanding anything contained in those sections by general or special order and subject to such conditions and restrictions (including conditions as to refund, adjustment or recovery), as may be specified therein, make such provisions as it may deem fit for securing, so far as may be, parity in such cases.

10A.(2) Any order under sub-section (1) may be made so as to have retrospective effect.

10A.(3) Every order made under sub-section (1) 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 session aforesaid, both Houses agree in making any modifications in the order or both Houses agree that the order should not be made, the order 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 order.

**11. Powers to remove difficulties.-**

11(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, for the purpose of removing the difficulty, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient:

Provided that no such order shall be made under this section after the expiry of three years from the appointed day.

11(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

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<sup>4</sup> Inserted vide Amendment Act of 1975 (Act 24 of 1975) enacted on 12.05.1975

**12. Act to have over-riding effect.-** The provisions of this Act or of any order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act, or in any rule, regulation or order or other instrument having effect by virtue of any law than this Act.

**13. Saving of orders in respect of disciplinary matters.-** Any order in respect of disciplinary matter in relation to any I.C.S. member or the Indian Administrative Service or any I.P. member of the Indian Police Service in force immediately before the appointed day shall continue in force as from the appointed day:

Provided that nothing in this section shall derogate from the powers of the competent authority to vary for rescind such orders.

**ORDERS ISSUED BY THE CENTRAL GOVERNMENT UNDER SECTION 10A OF THE FORMER SECRETARY OF STATE SERVICE OFFICERS (CONDITIONS OF SERVICE) ACT, 1972.**

**1. Every I.C.S. member of the Indian Administrative Service who attains the age of fifty eight years on or after the 1st of April, 1974 shall retire compulsory on the afternoon of the last day of the month in which he attains the age of fifty-eight years:** - In exercise of the powers conferred by section 10A of the Former Secretary of State Service Officers, (Conditions of Service) Act, 1972, the Central Government, being satisfied that the conditions regarding date of retirement applicable to an I.C.S. member of the Indian Administrative Service have become less favourable than those applicable to or in relation to the other members of the Indian Administrative Service, hereby orders that every I.C.S. member of the Indian Administrative Service who attains the age of fifty eight years on or after the 1st of April, 1974, and who is to retire in accordance with the provisions of clause (a) of Section 6 of the said Act on his attaining the age of fifty-eight years, shall retire compulsory on the afternoon of the last day of the month in which he attains the age of fifty-eight years:

2. Provided that in the case of a person who having attained the age of fifty-eight years retire from service on or after the 1st April, 1974 and before the date of publication of this Order such person shall only be entitled to the pay for the remaining days of the month in which he retires, subject to the recovery of any amount representing benefits by way of pension or otherwise for any period included in that month and to the consequential readjustment and refixation of annuity or other retirement benefits.

Explanation:- For the removal of doubts it is hereby declared that a person whose date of birth falls on the first day of any month shall have attained the age of fifty-eight years on the afternoon of the last day of the preceding month.

3. This Order shall be deemed to have come into force on the 1st day of April, 1974.

[DP & AR Order No. 12012/1/75-AIS (III), dated the 17th May, 1975.]

**2. An I.C.S. member of the Indian Administrative Service who retires from service on or after 1st January, 1973 can have the option for retirement benefit under the rules applicable to IAS officers:** - In exercise of the powers conferred by section 10A of the Former Secretary of State Service Officers (Conditions of Service) Act, 1972

(hereinafter referred to as the said Act), the Central Government, being satisfied that the conditions regarding retirement benefits applicable to an I.C.S. member of the Indian Administrative Service, who retired or retires from service on or after 1st January, 1973, have become less favourable than those applicable to or in relation to the other officers of the Indian Administrative Service, hereby orders that every such I.C.S. member may, as respects annuity death-cum-retirement gratuity benefits, family pension and any other retirement benefits, exercise an option in writing on or before the 31st December, 1975, to be governed with effect from the 1st January, 1973, by the same rules and regulations as are applicable to the other members of the Indian Administrative Service, and upon the exercise of the option, every such I.C.S. member shall as respects annuity and other benefits aforesaid be governed as from the said date by the same rules and regulations as are applicable to the other members of the Indians Administrative Service:

2. Provided that every person who exercises the option as aforesaid shall not be entitled to the credit of any amount to the provident fund account as is referred to in clause (d) of section 7 of the said Act and where any such amount has already been credited to the provident fund of such members, the provisions of this Order shall apply to him only if such amount is refunded to the Government:

3. Provided further that the Central Government may, if satisfied that any person had reasonable cause for not exercising the option within the period aforesaid, permit him to exercise the option, the expiry of the period notwithstanding.

[DP & AR Order No. 12012/1/75-AIS (II)-A, dated the 20th May, 1975.]

**3. Every former Secretary of State Service officer, retired from service or who may retire and who receives his pensions in India, be granted ad- hoc relief or graded relief or both as admissible if he is member of the Indian Administrative Service or the Indian Police Service or, as the case may be, other comparable service, not being a former Secretary of State Service Officer:** - In exercise of the powers conferred by section 10A of the Former Secretary of State Service Officers (Conditions of Service) Act, 1972, the Central Government being satisfied that the conditions regarding benefits by way of compensation for the increase in cost of living or otherwise applicable to former Secretary of State Service Officers have become less favourable than those applicable to or in relation to any corresponding class or category of other officers of the Indian Administrative Service or the Indian Police Service or any comparable service, hereby directs that every former Secretary of State Service officer who has retired from service or who may retire hereafter, and who receives his pensions in India, be granted such ad- hoc relief or graded relief or both as would be admissible to him if he is member of the Indian Administrative Service or the Indian Police Service or, as the case may be, other comparable service, not being a former Secretary of State Service Officer.

2. This Order shall be deemed to have come into force on 1<sup>st</sup> January, 1975.

[DP & AR Order No. 12012/1/75-AIS (II)-B, dated the 20<sup>th</sup> May, 1975.]

**4. Ad-hoc relief may be granted to the family pensioners of the former Secretary of State Service officers if it is less favourable than those of the corresponding IAS or IPS:** - In exercise of the powers conferred by section 10-A of the Former Secretary of

State Service Officers (Conditions of Service Act, 1972 (59 of 1972) the Central Government, being satisfied that the conditions of service as respects relief in family pension by way of compensation for the increase in cost of living or otherwise applicable to former Secretary of State Service officers have become less favourable than those applicable to or in relation to the corresponding category of other officers of the Indian Administrative Service or the Indian Police Service or any comparable service, hereby directs that the family or a former Secretary of State Service officer, that receives or may in future receive family pension in India, be granted such ad hoc relief or graded relief or both as would be admissible to the family of a member of the Indian Administrative Service or the Indian Police Service or, as the case may be, any other comparable service, not being a former Secretary of State Service Officer.

[DP & AR Order No. 25011/9/76-AIS (II)-B, dated the 15<sup>th</sup> June, 1977.]

[MHA ORDER NO. 31/7/72-AIS (III), dated 1-10-1972.]

**5. Government of India order for ICS officers regarding Provident fund:** - In exercise of the powers conferred by sub-section (1) of section 9 of the Former Secretary of State Service Officers (Conditions of Service) Act, 1972 (59 of 1972), the Central Government hereby makes the following Order, namely:-

1. (1) This Order may be called the Former Secretary of State Service Officers (Adaptation of Provident Fund Rules) Order, 1972.

(2) It shall come into force on the 1st day of October, 1972.

2. In the All India Services (Provident Fund) Rules, 1955,-

(a) in rule 2, after clause (g), following clauses shall be inserted, namely:-

(gg) "Indian Civil Service member of the Indian Administrative Service" means a person who was initially appointed to the Civil Service of the Crown in India known as the Indian Civil Service and who subsequently became a member of the Indian Administrative Service:

(ggg) "Indian Police member of the Indian Police Service" means a person who was initially appointed to the Police Service of the Crown in India known as the Indian Police and who subsequently became a member of the Indian Police Service.'

(b) in rule 3, after sub-rule (4) the following sub rules shall be inserted, namely:-

"(5) In the case of an Indian Civil Service member of the Indian Administrative Service, his credit in the Indian Civil Service Provident Fund and in the Indian Civil Service (Non-European Members) Provident Fund shall be transferred to this Fund.

(6) In the case of an Indian Police member of the Indian Police Service, his credit in the Secretary of State's Services General Provident Fund shall be transferred to this Fund."

(c) rule 29 shall be re-numbered as sub-rule (1) thereof, and after the sub-rule as so re-numbered, the following sub-rule shall be inserted namely:-

"(2) The account of each Indian Civil Service member of the Indian Administrative Service shall be credited on his retirement, or previous death, with a sum of Rs.6, 000."

3. The Indian Civil Service (Provident Fund) Rules, 1943, the Indian Civil Service (Non-European Members) Provident Fund Rules, 1943 and the Secretary of State's Services (General Provident Fund) Rules, 1943 are hereby repealed.

4. The provisions of section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to the repeal effected by rule 3 as if such repeal were a repeal of an enactment by a Central Act.

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