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

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THE SCHEDULE.

IndiaCode

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

ACT NO. 59 OF 1972

[21*st September*, 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[1] 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 Civil Service of the Crown in India known as the Indian 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 (17) of article 366 of the Constitution.

3. Conditions of service of I.C.S. members of the Indian Administrative 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.C.S. members of the Indian Administrative 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 (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,

1. 1st October, 1972, *vide* notification No. G.S.R. 420(E), dated 28th September, 1972, *see* Gazette of India, Extraordinary, Part II, sec. 3(*i*).

(*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 (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.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 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 pay as indicated against the post in the 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*) where 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 other 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 the 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' previous notice in writing, to retire in public interest from service on the date on which such member completes thirty years of qualifying service or attains 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 at least three months' previous notice in writing to the Government of the State on whose cadre he is borne, retire from service on the date on which such member completes thirty years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice:

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 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, as are applicable for the time being in the case of other members of the Indian Administrative Service, 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 orders of the Central Government in 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 an I.C.S. member of the 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 or 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:

[1][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 that 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" were substituted:

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 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.

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 (24 of 1975), into pound sterling.

Explanation 2.—In this sub-section, the expression "foreigner" means a person who is not a citizen of India.]

1. The provisos and *Explanations* ins. by Act 24 of 1975, s. 2 (w.e.f. 9-5-1975).

(*2*) Notwithstanding any judgment, decree or order of any court, every former Secretary of State Service officer [1][[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 and the Central Government or the State Government may set off, in such manner as it may deem fit, the amount required to be so refunded to it by any such officer against any sum (including pension) which is or which may become due from that Government to such officer.

(*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 adapt certain rules, regulations and orders.—(*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 (61 of 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 expiry of two years from the appointed 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.

(*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.

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.

[2][**10A. Power of Central Government to make orders in certain cases to ensure parity.—**(*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.

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

(*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 sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect

1. Ins. by Act 24 of 1975, s. 2 (w.e.f. 9-5-1975).
2. Ins. by s. 3, *ibid.* (w.e.f. 9-5-1975).

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. Power to remove difficulties.—(*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 sub-section after the expiry of three years from the appointed day.

(*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.

12. Act to have overriding 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 other than this Act.

13. Saving of orders in respect of disciplinary matters.—Any order in respect of disciplinary matters in relation to any I.C.S. member of 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 or rescind such order.

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(*See* section 5)

PART I

I.C.S. Members of the Indian Administrative Service

Serial No.	Post	Pay or Scale of Pay
1.	Secretary to the Government of India	Rs. 4,000.
2.	Additional Secretary to the Government of India . .	Rs. 3,500.
3.	Joint Secretary to the Government of India . . .	Rs. 3,000.
4.	First Member, Board of Revenue, Tamil Nadu . .	Rs. 3,750.

PART II

I. P. Members of the Indian Police Service

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Serial No.	Post	Pay or Scale of Pay
1.	Director, Intelligence Bureau	Rs. 3,500.
2.	Director General, Central Reserve Police Force . .	Rs. 3,250.
3.	Deputy Director, Intelligence Bureau	Rs. 1,950—50—2,150 *plus* Rs. 100 Special Pay.
4.	Inspector-General of Police	Rs. 2,500—125—3,000.
5.	Commissioner of Police, Calcutta	Rs. 2,300—50—2,500.
6.	Deputy Inspector-General of Police	Rs. 1,950—50—2,150.