

Assented to in Her Majesty's name this 3rd day of June, 1965.

Cosmo Haskard
Governor.



No. 6



1965

Colony of the Falkland Islands.

IN THE FOURTEENTH YEAR OF THE REIGN OF
Her Majesty Queen Elizabeth II.

SIR COSMO HASKARD, K.C.M.G., M.B.E.
Governor.

An Ordinance

For regulating Pensions, Gratuities and other Allowances which may be granted to Public Officers.

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows —

1. This Ordinance may be cited as the Pensions Ordinance, 1965, and shall be effective as from 1st January, 1964.

Short title and commencement.

2. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the meanings assigned to them, that is to say —

Interpretation.

“INDUCEMENT ALLOWANCE” means the inducement allowance referred to in paragraph (a) of Clause 3 of the Schedule to the Overseas Service Ordinance, 1962.

“NON-PENSIONABLE OFFICE” means an office which is not a pensionable office.

“OTHER PUBLIC SERVICE” means public service not under the Government of the Colony.

“OVERSEAS ALLOWANCE” means an allowance granted to such officers in public service under the Government of the Colony as may be declared by the Governor in Council to be eligible for such allowance.

"PENSIONABLE EMOLUMENTS" —

- (a) in respect of service under the Government of the Colony include —
 - (i) salary;
 - (ii) inducement allowance;
 - (iii) personal allowances;
 - (iv) overseas allowance;but do not include duty allowance, entertainment 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.

"PENSIONABLE OFFICE" means —

- (a) in respect of public service under the Government of the Colony, an office which, by virtue of provision for the time being in force in an Order made by the Governor in Council and published in the Gazette, is declared to be a pensionable office; and any such Order may from time to time be amended, added to, or revoked by an Order so made and published; but where by virtue of any such amendment or revocation any office ceases to be a pensionable office, then so long as any person holding that office at the time of the amendment or revocation continues therein, the office shall as respects that person, continue to be a pensionable office;
- (b) in relation to other public service, an office which is for the time being a pensionable office under the law or regulations in force in respect of such service.

"PERSONAL ALLOWANCE" means a special addition to salary granted personally to the holder for the time being of the office, but pensionable emoluments do not include such an addition if it is granted subject to the condition that it shall not be pensionable.

"PUBLIC SERVICE" means —

- (a) service in a civil capacity under the Government of the Colony or any other country or territory in the Commonwealth;
- (b) service under the East Africa High Commission, the East African Railways and Harbours Administration, the East African Posts and Telecommunications Administration or the East African Common Services Organization;
- (c) service in the service of the Interim Commissioner for the West Indies;
- (d) service which is pensionable —
 - (i) under the Oversea Superannuation Scheme;
 - (ii) under any Acts relating to the superannuation of teachers in the United Kingdom;
 - (iii) under a local authority in the United Kingdom; or
 - (iv) under the National Health Service of the United Kingdom;
- (e) any other service that the Secretary of State, or the Governor in Council after consultation with the Secretary of State, has determined to be public service for the purposes of this Ordinance;
- (f) except for the purposes of computation of a pension, gratuity or other allowance and of section 9 of this Ordinance, service in respect of which a pension may be granted under the Governors' Pensions Act, 1957; and
- (g) service as the holder of the office of President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa established by the Eastern Africa Court of Appeal Order in Council, 1961.

“SALARY” means the salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office.

(2) For the avoidance of doubts it is hereby declared that where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise require, such last mentioned office is for the purposes of this Ordinance, an office in which he has been confirmed.

(3) Where a pensionable office is abolished, and the person holding that office retires from the public service in consequence, he shall, if the office is abolished before that day, be deemed to have continued to hold it until the day immediately preceding the date of his retirement.

3. (1) Pensions, gratuities and other allowances may be granted by the Governor in Council in accordance with the regulations contained in the Schedule to this Ordinance to or in respect of officers who have been in public service under the Government of the Colony.

Pensions Regulations.

(2) The Governor in Council, with the sanction of the Secretary of State, may from time to time make regulations amending, adding to or revoking the regulations contained in the Schedule to this Ordinance, and all regulations so made shall be laid before the Legislative Council and published in the Gazette.

(3) Whenever the Governor in Council is satisfied that it is equitable that any regulation made under this section should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any person, that regulation may be given retrospective effect for that purpose:

Provided that no such regulation shall have retrospective effect unless it has received, before being made, the approval of the Legislative Council signified by resolution.

(4) All regulations made under this Ordinance shall have the same force and effect as if they were contained in the Schedule to this Ordinance and the expression “this Ordinance”, shall wherever it occurs in this Ordinance, be construed as including a reference to the said Schedule.

(5) Any pension, gratuity or other allowance granted under this Ordinance shall be computed in accordance with the provisions in force or, having been made in accordance with subsection (3) of this section, may be deemed to be in force at the actual date of an officer’s retirement or death while in the public service, as the case may be.

4. There shall be charged and paid out of the revenues of the Colony all such sums as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Ordinance.

Pensions, etc. to be charged on revenues of the Colony.

5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity or other allowances; nor shall anything in this Ordinance effect the right of the Crown to dismiss any officer at any time and without compensation.

Pensions, etc. not of right.

(2) Where it is established to the satisfaction of the Governor in Council that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity or other allowance may be reduced or altogether withheld.

6. (1) No pension, gratuity or other allowance shall be granted under this Ordinance to any officer except on his retirement from the public service in one of the following cases —

Circumstances in which pension may be granted.

(a) if he retires from public service under the Government of the Colony —

- (i) on or after he attains the age of sixty years, or, with the approval of the Governor in Council, fifty-five years, or in special cases, with the approval of the Secretary of State, on or after attaining the age of fifty years;
 - (ii) on the abolition of his office, on reduction of establishment, or on the grounds of redundancy;
 - (iii) on compulsory retirement for the purpose of facilitating improvement in the organisation of the department to which he belonged, by which greater efficiency or economy may be effected;
 - (iv) on medical evidence to the satisfaction of the Governor in Council or the Secretary of State that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;
 - (v) in the case of termination of employment in the public interest as provided in this Ordinance;
- (b) if, having been transferred to other public service —
- (i) he retires after he attains the age at which he is permitted by the law or regulations of the public service in which he is last employed to retire on pension or gratuity or, if no age is prescribed by the said law or regulations, he retires after he attains the age of fifty; or
 - (ii) he retires in any other circumstances in which he is permitted by the said law or regulations to retire on pension or gratuity:

Provided that sub-paragraph (ii) of this paragraph shall not apply in the case of a female officer who retires for the reason she has married or is about to marry.

(2) Notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance, a gratuity may be granted to a female officer, in accordance with the provisions of this Ordinance, who —

- (a) retires from public service under the Government of the Colony for the reason that she is about to marry, or within two years or such longer period as the Governor in special cases shall authorise of having married; or
- (b) having been transferred to other public service retires for the reason that she has married or is about to marry and in circumstances under which the law or regulations of the service in which she is last employed provide for the grant to her of a gratuity.

(3) An officer not otherwise qualified for a pension, gratuity or other allowance under this Ordinance, other than a pension under regulation 23 of the Pensions Regulations, 1965, may, on his retirement or removal from his employment after having served in public service under the Government of the Colony for not less than five years, be granted a gratuity in accordance with the provisions of regulation 25 of the Pensions Regulations, 1965.

Retirement on grounds of public interest.

7. Where an officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer thereto 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 Ordinance, the Governor in Council may, if he thinks fit, grant such pension, gratuity or other allowance as he thinks just 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 sub-paragraph (iv) of paragraph (a) of subsection (1) of section 6 of this Ordinance.

8. The Governor in Council may require an officer to retire from the public service under the Government of the Colony —

Compulsory Retirement.

- (a) at any time after he attains the age of fifty-five years; or
- (b) in special cases, with the approval of the Secretary of State, at any time after he attains the age of fifty years;
- (c) in the case of a female officer, on marriage.

9. (1) Except in cases provided for by subsection (2) of this section, a pension granted to an officer under this Ordinance shall not exceed two-thirds of his highest pensionable emoluments at any time while in public service under the Government of the Colony.

Maximum pension.

(2) An officer who has been granted a pension in respect of other public service shall not at any time draw from the public funds of the Colony 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 his highest pensionable emoluments at any time in the course of his public service:

Provided that where any officer receives in respect of some period of service both a gratuity and pension, the amount of such pension shall be deemed for the purpose of this subsection to be —

- (a) where the right to commute any part of a pension in return for the payment of a gratuity has been exercised, the amount if that right had not been exercised; or
- (b) in all other cases, four-thirds of its actual amount.

(3) Where the limitation prescribed by subsection (2) of this section operates, the amount of pension to be drawn from the public funds of the Colony shall be such amount as the Governor shall determine after consultation with the Secretary of State in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

(4) For the purposes of the subsections (1), (2) and (3) of this section an additional pension granted in respect of injury shall not be taken into account; but where the officer is granted such an additional pension under this Ordinance, the amount thereof together with the remainder of his pension or pensions shall not exceed five-sixths of his highest pensionable emoluments at any time in the course of his public service.

(5) For the purpose of this section where any increase is granted to or in respect of a pension or allowance payable under this Ordinance and the grant of the increase is subsequent to the date of the grant of the pension or allowance, or where any comparable increase in pension or pensions is drawn in respect of other public service, whether or not such increase is governed by any instrument having the force of law, such increase granted or drawn shall not be taken into account.

10. (1) Every pension granted under this Ordinance shall be subject to the following conditions —

Liability of pensioners to be called upon to take further employment.

- (a) Unless or until the person in receipt of the pension has attained the age of fifty-five years he may, if physically fit for service, be called upon by the Secretary of State to accept an office, whether in public service under the Government of the Colony or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he held at the date of his retirement.
- (b) If a pensioner so called upon declines to accept such office the payment of his pension may be suspended until he has attained the age of fifty-five years.

(2) The provisions of subsection (1) of this section shall not apply in any case where the Governor in Council, being of opinion that the person in receipt of pension is not qualified for other employment in the public service or that there is no reason to expect that he can be shortly re-employed therein, otherwise directs.

Suspension of pension on re-employment.

11. If a person to whom a pension has been granted under this Ordinance is appointed to an office in the public service, the payment of his pension may, with his consent, if the Governor in Council thinks fit, be suspended during the period of his re-employment.

Pensions, etc. not to be assignable.

12. A pension, gratuity or other allowance granted under this Ordinance shall not be assignable or transferable except for the purpose of satisfying —

- (a) a debt due to the Government of the Colony; or
- (b) an order of any competent court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the person to whom the pension, gratuity, or other allowance has been granted,

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Government as aforesaid.

Pensions, etc. to cease on bankruptcy.

13. (1) Where any person to whom a pension or other allowance has been granted under this Ordinance is adjudicated bankrupt or is declared insolvent by judgment of any competent court, then such pension or allowance shall forthwith cease.

(2) Where any officer is adjudicated bankrupt or declared insolvent by judgment of any competent court either —

- (a) after retirement in circumstances in which he is eligible for pension, gratuity, or other allowance, under this Ordinance, but before the pension, gratuity, or other allowance is granted; or
- (b) before such retirement, and he has not obtained his discharge from bankruptcy or insolvency at the date of retirement,

then, in the former case, any pension or other allowance eventually granted to him shall cease as from the date of adjudication or declaration (as the case may be) and, in the latter case, the pension or other allowance may be granted, but shall cease forthwith and not become payable, and in either case the gratuity may be granted but shall not be paid to him.

(3) Where a pension or other allowance ceases, or where any gratuity is not paid, by reason of this section, it shall be lawful for the Governor, as he thinks fit, from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity or other allowance, had he not become bankrupt or insolvent, to be paid to, or applied for, the maintenance or benefit of all or any, to the exclusion of the other or others, of the following, that is to say, such person and his wife, child, or children, or such other dependants as the Governor may determine, in such proportion and manner as he thinks proper; and such moneys shall be paid or applied accordingly.

(4) Moneys applied for the discharge of the debts of the person whose pension or other allowance has ceased, or whose gratuity has not been paid, by reason of this section shall, for the purposes of this section, be regarded as applied for his benefit.

(5) Where a person whose pension or other allowance has ceased, or whose gratuity has not been paid, by reason of this section obtains his discharge from bankruptcy or insolvency, it shall be lawful for the Governor to direct that the pension or other allowance shall be restored and the gratuity, or so much thereof (if any) as remains after deducting any payments made under subsection (3), paid as from the date of such discharge or any later date; and the pension or other allowance shall be restored, and the gratuity or such remainder thereof (if any) paid, accordingly.

(6) For the purposes of this section the word "child" shall include an illegitimate child, a step-child and an adopted child, adopted in a manner prescribed by law, but shall not include a child who has attained the age of eighteen years or, in the case of a female child, has married.

14. (1) Where any person to whom a pension or other allowance has been granted under this Ordinance is sentenced to death or to a term of imprisonment by any competent court for any offence, such pension or allowance shall, if the Governor so directs, cease as from such date as he determines.

Pensions, etc. may cease on imprisonment.

(2) Where any officer is sentenced to death or to a term of imprisonment by any competent court for any offence after retirement in circumstances in which he is eligible for pension, gratuity or other allowance under this Ordinance but before the pension, gratuity, or other allowance is granted, then —

- (a) the provisions of subsection (1) of this section shall apply as respects any pension or other allowance which may be granted to him; and
- (b) the Governor may direct that any gratuity which may be granted to him shall not be paid.

(3) Where a pension or other allowance ceases, or a gratuity is not paid, by reason of this section, it shall be lawful for the Governor to direct all or any part of the moneys to which such person would have been entitled by way of pension, gratuity or other allowance, but for the provisions of this section, to be paid or applied in the same manner in all respects as provided in section 13; and such moneys shall be paid or applied accordingly.

(4) Where any person whose pension or other allowance ceases or whose gratuity is not paid, by reason of this section after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect, or his gratuity shall be paid, but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under subsection (3) of this section.

(5) Where any pension or other allowance ceases or a gratuity is not paid by reason of this section it shall be lawful for the Governor at any time, and upon such terms and from such date (including any past date) as he thinks fit to restore, either in whole or in part, such pension or allowance or to direct the payment of such gratuity or any part thereof, but in determining whether arrears of such pension or allowance are payable and in computing the amount thereof and the amount of any gratuity, account shall be taken of all moneys paid or applied under subsection (3) of this section.

15. Where any person to whom a pension or other allowance has been granted under this Ordinance, otherwise than under section 17, becomes either a director of any company the principal part of whose business is in any way directly concerned with the Colony, or an officer or servant employed in the Colony by any such company, without the prior permission in writing of the Governor, such pension or allowance shall cease if the Governor so directs:

Pensions, etc. on accepting certain appointments.

Provided that it shall be lawful for the Governor, on being satisfied that the person in respect of whose pension or other allowance any such direction has been given has ceased to be a director of such company, or to be employed as an officer or servant of such company in the Colony, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he thinks fit, to such a date as he may specify; and the pension or other allowance shall be restored in accordance with any such directions.

16. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he has been transferred from a pensionable office in

Gratuity where officer dies in the service or after retirement.

which he has been confirmed, dies while in public service under the Government of the Colony, the Governor in Council may grant to his legal personal representative a gratuity of an amount not exceeding either his annual pensionable emoluments, his commuted pension gratuity if any, or the amount that would have been paid in salary during the time the officer was taking any accumulated leave had he lived to take it, whichever is the greatest:

Provided that for the purposes of this section an officer who has not been confirmed in his office and who dies in the circumstances mentioned in subsection (1) of section 17 of this Ordinance shall be deemed to have been confirmed in his office.

(2) Where an officer dies after retirement from public service under the Government of the Colony having been granted, or having become eligible for, a pension under this Ordinance and the sums paid or payable to him at the date of his death on account of such pension including any sum awarded by way of gratuity under regulation 24 of the Pensions Regulations and any pension or gratuity paid or payable in respect of his service under any scheduled administration (as defined in regulation 8 of the Pensions Regulations, 1965) but excluding any additional pensions awarded in accordance with the provisions of sub-paragraph (b) of paragraph 3 of regulation 23 of the Pensions Regulations are less in total than the amount of his annual pensionable emoluments, the Governor in Council may grant a gratuity equal to the deficiency to his legal personal representative.

(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 Oversea Superannuation Scheme in respect of such death.

(4) In this section —

- (a) “annual pensionable emoluments” means the emoluments taken for the purpose of computing any pension or gratuity granted to the officer under this Ordinance or in the case of such officer as is described in subsection (1) of this section, the emoluments which would have been taken in accordance with regulation 18 of the Pensions Regulations, 1964, for the purpose of computing the pension or gratuity that would have been granted to the officer if, on the day following the date of his death, he had retired from the public service in circumstances which enabled such a grant to be made;
- (b) “commuted pension gratuity” means the gratuity, if any, which might have been granted to the officer under regulation 24 of the Pensions Regulations, 1964, if the pensionable service which would be taken for the purpose of computing any pension or gratuity granted to him under this Ordinance had been wholly under the Government of the Colony and if, on the day following the date of his death he had retired from the Public Service in circumstances which enabled such a grant to be made and had elected to receive a gratuity and a reduced pension.

Pensions to dependants when an officer dies as a result of injuries received or disease contracted in the discharge of his duties.

17. (1) Where an officer while in public service under the Government of the Colony —

- (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct,

and dies as a direct result thereof, and such death occurs within seven years of the date when he was injured or contracted the disease, the Governor in Council may grant, in addition to the grant,

if any, made to his legal personal representative under section 16 of this Ordinance —

- (i) if the deceased officer leaves a widow, a pension to her at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or fifteen pounds a year, whichever is the greater;
- (ii) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, a pension in respect of each child, until such child attains the age of eighteen years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (iii) if the deceased officer leaves a child or children, but does not leave a widow, or no pension is granted to the widow, a pension in respect of each child, until such child attains the age of eighteen years, of double the amount prescribed by the preceding paragraph;
- (iv) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (i) of this subsection, and the widow subsequently dies, a pension in respect of each child as from the date of the death of the widow until such child attains the age of eighteen years, of double the amount prescribed in paragraph (ii) of this subsection;
- (v) if the deceased officer does not leave a widow, or if no pension is granted to his widow and if his mother was wholly or mainly dependent on him for her support, a pension to the mother of an amount not exceeding the pension which might have been granted to his widow;
- (vi) if the deceased officer does not leave a widow or mother, or if no pension is granted to his widow or mother, and if his father was wholly or mainly dependent on him for his support, a pension to the father of an amount not exceeding the pension which might have been granted to his widow;
- (vii) if the deceased officer does not leave a child or children who is or are eligible for a pension under the provisions of this section, and if any brother or sister was wholly or mainly dependent on him for support, a pension to any brother or sister until he or she attains the age of eighteen years, of the same amount and subject to the same conditions as the pension which might have been granted under paragraph (ii), (iii) or (iv) of this subsection, as the case may be:

Provided that —

- (a) if in the opinion of the Governor in Council there are compassionate grounds for so doing, he may grant to any child of a deceased officer being a child who at the date of the death of the officer was wholly or mainly dependent on him for support and who has attained the age of eighteen years a pension for such period as the Governor in Council may determine, of an amount not exceeding the pension which may be granted under paragraph (ii), (iii) or (iv) of this subsection, as the case may be;
- (b) where a deceased officer leaves a child who was incapacitated at the time of the officer's death (hereinafter in this section referred to as an "incapacitated child") the Governor may, notwithstanding any pension which may have been granted under paragraph (ii), (iii) or (iv) of this subsection grant an additional pension in respect of such incapacitated child after he has attained the age of eighteen years and so long as his incapacity shall continue, of an amount not exceeding one-half the pension which might have been granted under paragraph (ii), (iii) or (iv) aforesaid, as the case may be;

- (c) where compensation in respect of the death is payable under any law in force in the Colony which provides for the payment of workmen's compensation, or where benefits corresponding to benefits granted under this section are payable under the Oversea Superannuation Scheme or under the law in force in respect of any other public service, in respect of death, the Governor in Council may reduce or withhold any pension which may be payable under this section in such manner as he may consider reasonable;
- (d) no pension shall be payable under this subsection at any time in respect of more than six children exclusive of incapacitated children, and where there are more than six such children, in respect of whom, but for this proviso, a pension would be payable, then the amount payable in respect of six children shall be divided equally among all such children during the period in which there are more than six children of pensionable age;
- (e) in the case of a pension granted under paragraph (v), (vi) or (vii) of this subsection, if it appears to the Governor at any time that the mother or father, or any brother or sister, is adequately provided with other means of support, such pension shall cease as from such date as the Governor may determine.

(2) No pension shall be granted to the widow of the deceased officer if she was not married to him at the date of injury.

(3) No pension shall be payable to the widow of the deceased officer or to any other female if —

- (a) in the case of the widow, she was at the time of the death cohabiting with a person other than the deceased officer or after the death she marries or cohabits with any person;
- (b) in the case of a female who is not the widow of the deceased officer, she was at the time of the death married to or cohabiting with any person or after the death she marries or cohabits with any person;

and if, after the grant of pension to the widow or other female, she marries or cohabits with any person, the pension shall cease from the date of the marriage or the commencement of the cohabitation :

Provided that where —

- (i) a pension is withheld or ceases under this subsection; and
- (ii) the Governor in Council is satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for the payment of the pension notwithstanding marriage the Governor in Council may, if he thinks fit, grant or regrant the pension as from that date.

(4) In the case of an officer not holding a pensionable office the expression "pensionable emoluments" in the preceding subsection shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(5) If an officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his service in the public service of the Government of the Colony, or for a period of secondment, duty leave or leave therefrom, dies as a result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel, aircraft or vehicle, and the Governor in Council is satisfied that such damage or act is attributable to circumstances arising out of war in which Her Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died as a result of the circumstances described in paragraph (a) of subsection (1) of this section.

(6) An officer who dies as a result of an injury received while travelling by air in pursuance of official instructions, which injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purposes of this section to have died in the circumstances described in paragraph (a) of subsection (1) of this section:

Provided that in such a case the rates of pension prescribed in paragraphs (i) and (ii) of subsection (1) of this section shall be fifteen-sixtieths and one-sixth respectively.

(7) (a) Where the Governor in Council is satisfied that damages have been or will be recovered in respect of the death for which a pension may be granted under subsection (1) of this section, the Governor in Council may take those damages into account against such pension in such manner and to such extent that he may think fit and may withhold or reduce the pension accordingly.

(b) For the purposes of this subsection an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of a court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

(8) For the purposes of this section the following words have in relation to an officer, the meanings hereby respectively assigned to them —

(a) "brother" includes, in relation to a person, every male child of his father or his mother;

(b) "child" includes —

(i) a posthumous child;

(ii) a step-child or illegitimate child born before the date of the injury or contracting the disease, as the case may be, and wholly or mainly dependent upon the deceased officer for support; and

(iii) an adopted child, adopted in a manner recognised by law, before the date of the injury or contracting the disease, as the case may be, and dependent as aforesaid;

(c) "incapacitated" means in relation to a child, incapable by reason of some specific bodily or mental disability of earning his own living, and a child, who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this section if it appears that, by reason of any specific bodily or mental disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so;

(d) "father" includes, in relation to a person, his step-father and a male person by whom he has been adopted;

(e) "mother" includes, in relation to a person, a step-mother and a female person by whom he has been adopted;

(f) "sister" includes, in relation to a person, every female child of his father or his mother.

(9) In this section, unless the contrary intention appears, reference to an officer being injured and to the date on which an injury is sustained shall respectively be construed as including references to him contracting a disease such as is mentioned in paragraph (b) of subsection (1) of this section and to the date on which such disease is contracted.

18. Where an officer shall have served with Her Majesty's Forces in time of war, with the approval of the Governor of the territory in the service of which he was last employed before so serving or of the Secretary of State, the following provisions shall have effect —

(1) During the period of such service in Her Majesty's Forces, including any period after the termination of the war (in

War service to count for pension purposes.

this section referred to as "military service"), he shall be deemed, for the purposes of this Ordinance, 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.

(2) During any period between his leaving the public service for the purpose of serving in Her Majesty's Forces and the date of his commencing military service, he shall, for the purposes of this Ordinance, 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 (2) of this section exceeds three months, or such longer period as the Governor, with the approval of the Secretary of State, may in any special case determine; or if the officer fails, after serving with Her Majesty's Forces, 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 three 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 (1) 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 (1) 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 this Ordinance, 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;
- (e) save wherein any particular case the Governor otherwise directs, this section shall not apply where the office in the public service last held by the officer prior to military service was not a pensionable office.

Application.

19. (1) The provisions of this Ordinance shall apply—

- (a) to every officer first appointed to public service under the Government of the Colony—
 - (i) after the 31st December, 1949; or
 - (ii) before the 31st December, 1949, to whom it was intimated before appointment that he would be liable to be affected by any change in the pensions law of the Colony; and
- (b) to every other officer in public service under the Government of the Colony on the 31st December, 1949, or

transferred from public service under the Government of the Colony to other public service before the 31st December, 1949, and still in public service on that date, unless not later than twelve months after such date or within such further period as the Governor has in any special case allowed, the officer gave notice in writing to the Colonial Secretary that the provisions of the Pensions Ordinance, 1937, and all Regulations made thereunder shall apply to him, in which case they shall continue to apply accordingly.

(2) If any officer who shall have given notice, as described in the preceding subsection, is thereafter re-appointed to the public service under the Government of the Colony the provisions of this Ordinance shall apply to him in respect of his whole service under the Government of the Colony:

Provided that except where such an officer shall eventually become eligible for a pension or gratuity under this Ordinance in respect of his service both before and after his re-employment, a pension or gratuity granted to him solely in respect of service prior to such re-employment shall not be recomputed.

20. (1) The Pensions Ordinance is hereby repealed.

Repeal of Cap. 49.

(2) Nothing in this Ordinance shall either diminish the rights acquired by any person under any Ordinance repealed by this Ordinance or affect the pensions granted to any persons who have retired before the coming into operation of this Ordinance.

Ref. 0829/III.

SCHEDULE
REGULATIONS

Section 3

PART I
PRELIMINARY

Short title. 1. These Regulations may be cited as the Pensions Regulations, 1965.

Interpretation. 2. In these Regulations, unless the context otherwise requires —

“QUALIFYING SERVICE” means service which may be taken into account in determining whether an officer is eligible by length of service for pension, gratuity, or other allowance;

“PENSIONABLE SERVICE” means service which may be taken into account in computing pension under these Regulations;

“THE ORDINANCE” means the Pensions Ordinance, 1965.

PART II
OFFICERS WITHOUT OTHER PUBLIC SERVICE

Application of Part II. 3. Save when the Governor in Council in any special case otherwise directs, this Part of these Regulations shall not apply in the case of any officer transferred to or from the public service under the Government of the Colony from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity, and the amount of pension or gratuity, for which the officer would have been eligible, if the service of the officer had been wholly service in public service under the Government of the Colony.

Pension to whom and at what rates to be granted. 4. Subject to the provisions of the Ordinance and of these Regulations, every public officer holding a pensionable office under the Government of the Colony who has been in service under the Government of the Colony for ten years or more may be granted on his retirement a pension at the rate of one seven-hundred and twentieth of his pensionable emoluments in respect of each completed month of pensionable service.

Gratuities where length of service does not qualify for pension. 5. Every officer, otherwise qualified for a pension, who has not completed the minimum period of service qualifying for a pension, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to the officer under regulation 4 of these Regulations.

Marriage Gratuities. 6. Where a female officer, who has been in public service under the Government of the Colony for not less than seven years and has been confirmed in a pensionable office, retires or is required to retire from that service for the reason that she is about to marry or has married, and she is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these Regulations, she may be granted, on production within six months after her retirement, or such longer period as the Governor may in any particular case allow, of satisfactory evidence of her marriage, a gratuity of an amount not exceeding —

(a) one year's pensionable emoluments; or

(b) five times the annual amount of the pension which might have been granted to her under regulation 4 of these Regulations had there been no qualifying period and had that regulation been applicable to her,

whichever amount shall be the less.

PART III
TRANSFERRED OFFICERS

Application of Part III. 7. This Part of these Regulations shall apply only in the case of an officer transferred to or from public service under the Government of the Colony from or to other public service.

8. (1) In this Part and Part IV of these Regulations —

Interpretation.

“SCHEDULED ADMINISTRATION” means —

- (a) the Government of any territory, or any authority, mentioned in the Schedule to these Regulations;
- (b) the Government of Ceylon, in respect of any officer appointed to service under that Government before the 4th day of February, 1948;
- (c) the Government of Palestine, in respect of any officer appointed to service under that Government before the 15th day of May, 1948;
- (d) the Government of the Somali Republic, in respect of any officer appointed to service under the former Government of the Somaliland Protectorate before the 26th day of June, 1960;
- (e) the Government of Cyprus, in respect of any officer appointed to service under that Government before the 16th day of August, 1960;
- (f) the East African Common Services Organisation, in respect of any person deemed to have been appointed to serve as President, Vice-President, Justice of Appeal, Registrar, officer or servant of the Court of Appeal for Eastern Africa by or under the Eastern Africa Court of Appeal Order in Council, 1961; and
- (g) the Interim Commissioner for the West Indies, in respect of any person deemed to have been appointed or appointed to service as Judge, Registrar, officer or servant of the British Caribbean Court of Appeal by or under the British Caribbean Court of Appeal Order in Council, 1962.

“SERVICE IN THE GROUP” means service in the public service under the Government of the Colony and under a scheduled administration or scheduled administrations.

(2) Where an officer to whom this Part of these Regulations applies is, on his retirement from the public service, not granted a pension or gratuity in respect of his employment in the service in which he was last employed, solely by reason of the fact that he has not held office or pensionable office therein for a specified period, he shall nevertheless be deemed for the purposes of this Part of these Regulations to have retired in circumstances in which he is permitted by the law in force in respect of the service in which he is last employed to retire on pension or gratuity.

(3) For the purpose of these Regulations —

- (a) any officer in public service under the Government of the Federation of Rhodesia and Nyasaland immediately before the 1st January, 1964, who was immediately before that date employed on secondment to service under the Government of Southern Rhodesia, or Northern Rhodesia or Nyasaland, or was as from that date so employed, shall be deemed to continue to serve in public service under the Government of the Federation of Rhodesia and Nyasaland until his employment on secondment is terminated.
- (b) any pension awarded on or after the 1st January, 1964, in respect of service under the Government of the Federation of Rhodesia and Nyasaland shall be deemed to have been granted by that Government notwithstanding the provisions of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963.

9. (1) Subject to the provisions of this Ordinance and of these Regulations, where the other public service of an officer to whom this Part of these Regulations applies has been wholly under one or more scheduled administrations and his aggregate service would have qualified him had it been wholly service in public service under the Government of the Colony for a pension under this Ordinance, he may, on his retirement from the public service, be granted in respect of his service in public service under the Government of the Colony a pension of such an amount as shall bear the

Pension for service wholly within the group.

same proportion to the amount of pension for which he would have been eligible had his service been wholly in public service under the Government of the Colony as the aggregate amounts of his pensionable emoluments during service in public service under the Government of the Colony shall bear to the aggregate amounts of his pensionable emoluments throughout his service in the group.

(2) In determining for the purposes of this regulation the pension for which an officer would have been eligible if his service had been wholly service in public service under the Government of the Colony —

- (a) in the application of regulation 18, his pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him at the date of his retirement from the public service or during the three years or lesser period preceding that date, as the case may be, except that where the officer is not serving under a scheduled administration at that date, the date upon which he was last transferred from the public service under a scheduled administration shall be deemed to be the date of his retirement for the purposes of this sub-paragraph;
- (b) no regard shall be had to an additional pension under regulations 22 or 23;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of the highest pensionable emoluments enjoyed by him at any time during his public service;
- (d) no period of public service under a scheduled administration or under the Government of the Colony in respect of which no pension or gratuity is granted to him shall be taken into account.

(3) For the purpose of this regulation the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he would have received or enjoyed had he been on duty on full pay in his substantive office or offices throughout his period of service in the group subsequent to the attainment of the age of twenty years:

Provided that —

- (a) in calculating the aggregate amount of his pensionable emoluments, no account shall be taken of any service under a scheduled administration or under the Government of the Colony in respect of which no pension or gratuity is granted to him by that administration or Government, as the case may be;
- (b) where service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, the officer's aggregate pensionable emoluments during that service shall be taken into account to the same extent as that service is taken into account as pensionable service.

10. (1) Subject to the provisions of this Ordinance and of these Regulations, where the other public service of an officer to whom this Part of these Regulations applies has not included service under any of the scheduled administrations, and his aggregate service would have qualified him, had it been wholly service in public service under the Government of the Colony for a pension under these Regulations, he may on his retirement from public service, be granted in respect of his service in public service under the Government of the Colony, a pension of an amount equal to the pension for which he would have been eligible under regulation 4, if there had been no qualifying period and if he had had no other public service.

(2) Where the officer is not in public service under the Government of the Colony at the time of such retirement, his pensionable emoluments for the purposes of paragraph (1) of this regulation shall be those which would have been taken for the purposes of computing his pension if he had retired from the public service and been granted a pension at the date of his last transfer from public service under the Government of the Colony.

Pension where other service is not within the group.

11. Where a part only of the other public service of an officer to whom this Part of these Regulations applies has been under one or more of the scheduled administrations, the provisions of regulation 9 shall apply; but in calculating the amount of pension, regard shall be had only to service in the group.

Pension when other service both within and not within the group.

12. Subject to the provisions of this Ordinance and of these Regulations, where an officer to whom this Part of these Regulations applies retires from the public service but has not been in the public service for ten years, he may be granted in respect of his service in the public service under the Government of the Colony a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him under regulation 9, 10 or 11, as the case may be.

Gratuities where length of service does not qualify for pension.

13. Where a female officer to whom this Part of these Regulations applies retires or is required to retire from the public service for the reason that she is about to marry or has married, and —

Marriage Gratuities.

- (i) would have been eligible for a gratuity under regulation 6 of these Regulations if her public service had been wholly under the Government of the Colony; and
- (ii) is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these Regulations,

she may be granted in respect of her public service under the Government of the Colony a gratuity of an amount not exceeding five times the annual amount of the pension for which she would have been eligible under regulation 9, 10 or 11 had there been no qualifying period and had regulation 9, 10 or 11, as the case may be, been applicable to her:

Provided that for the purpose of computing the amount of such a gratuity —

- (a) in relation to a pension under regulation 9 or 11, subparagraph (c) of paragraph (2) of regulation 9 shall have effect as if the reference therein to two-thirds of her highest pensionable emoluments were a reference to one-fifth of her annual pensionable emoluments;
- (b) in relation to a pension under regulation 9, 10 or 11, the annual amount of that pension shall not exceed one-fifth of her annual pensionable emoluments.

PART IV GENERAL

14. (1) Subject to the provisions of these Regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his leaving the public service without deduction of any period during which he has been absent on leave.

General rules as to qualifying service and pensionable service.

(2) No period which is not qualifying service by virtue of paragraph (1) of this regulation shall be taken into account as pensionable service.

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or as pensionable service.

15. (1) Except as otherwise provided in these Regulations, only continuous public service shall be taken into account as qualifying service or as pensionable service:

Continuity of service.

Provided that any break in service caused by temporary suspension of employment in the public service not arising from misconduct or voluntary resignation shall be disregarded for the purposes of this paragraph:

Provided also that any person holding office in public service under the Government of Palestine immediately before the fifteenth day of May, 1948, shall be deemed to have continued in his office until either he was appointed to the service of the Crown elsewhere, or, if he was not so appointed, he retired or was removed from office.

- (2) An officer —
- (a) whose pension has been suspended under section 11 of this Ordinance or under a corresponding provision in any law relating to the grant of pensions in respect of public service; or
 - (b) who has retired from the public service without pension on account of ill health, abolition of office, or reorganisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
 - (c) who has left service which is pensionable —
 - (i) under any Acts relating to the superannuation of teachers in the United Kingdom;
 - (ii) under a local authority in the United Kingdom; or
 - (iii) under the National Health Service of the United Kingdom;

with a view to entering public service not being pensionable service as aforesaid and has not later than three months, or such extended period as the Governor may in any particular case approve, after leaving such pensionable service, received any salary in respect of employment in public service not so pensionable

may, if the Governor in Council thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension to be in lieu of —

- A. any pension previously granted to him from the funds of the Colony, and
- B. any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation,

but additional to any gratuity so granted which is not required to be refunded as aforesaid.

Leave without salary.

16. No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave has been granted on grounds of public policy with the approval of the Governor.

Service in Her Majesty's Forces.

17. Where an officer, during some period of his service, has been on the active list of the Royal Navy, the Army or the Royal Air Force, and pension contributions have been paid in respect of that period from the funds of the Colony or of any scheduled administration and have not been refunded, such period shall not be taken into account as pensionable service.

Emoluments to be taken for computation of pensions, etc.

18. (1) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of not less than three years' pensionable service before his retirement —

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken :

- (2) An officer —
- (a) whose pension has been suspended under section 11 of this Ordinance or under a corresponding provision in any law relating to the grant of pensions in respect of public service; or
 - (b) who has retired from the public service without pension on account of ill health, abolition of office, or reorganisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
 - (c) who has left service which is pensionable —
 - (i) under any Acts relating to the superannuation of teachers in the United Kingdom;
 - (ii) under a local authority in the United Kingdom; or
 - (iii) under the National Health Service of the United Kingdom;

with a view to entering public service not being pensionable service as aforesaid and has not later than three months, or such extended period as the Governor may in any particular case approve, after leaving such pensionable service, received any salary in respect of employment in public service not so pensionable

may, if the Governor in Council thinks fit, be granted the pension or gratuity for which he would have been eligible if any break in his public service immediately prior to such suspension, re-employment or employment had not occurred, such pension to be in lieu of —

- A. any pension previously granted to him from the funds of the Colony, and
- B. any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation,

but additional to any gratuity so granted which is not required to be refunded as aforesaid.

Leave without salary.

16. No period during which an officer has been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave has been granted on grounds of public policy with the approval of the Governor.

Service in Her Majesty's Forces.

17. Where an officer, during some period of his service, has been on the active list of the Royal Navy, the Army or the Royal Air Force, and pension contributions have been paid in respect of that period from the funds of the Colony or of any scheduled administration and have not been refunded, such period shall not be taken into account as pensionable service.

Emoluments to be taken for computation of pensions, etc.

18. (1) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of not less than three years' pensionable service before his retirement —

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his retirement, the full annual pensionable emoluments enjoyed by him at that date in respect of that office shall be taken;
- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increment, the full annual pensionable emoluments enjoyed by him at the date of his retirement in respect of the office then held by him shall be taken;
- (c) in other cases one third of the aggregate pensionable emoluments enjoyed by the officer in respect of his service during the three years of his service immediately preceding the date of his retirement shall be taken:

Provided that—

- (i) if such one third is less than the highest annual pensionable emoluments enjoyed by him at the date of any transfer within such period of three years these annual pensionable emoluments shall be taken; and
- (ii) if such one third is less than the annual pensionable emoluments which would have been enjoyed by him at the date of his retirement, if he had continued to hold any office from which he has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion of the Governor in Council, would have been granted to him, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under paragraph (1) of this regulation the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he shall be deemed—

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his retirement; and
- (b) to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period of three years.

(3) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of less than three years' pensionable service before his retirement—

- (a) the average annual pensionable emoluments enjoyed by him during such period shall be taken;
- (b) he shall be deemed to have been on duty on full pensionable emoluments throughout such period; and
- (c) he shall be deemed to have enjoyed the benefit of any increase due to a general revision in the pensionable emoluments of any office held by him as if such increase had been payable throughout such period.

(4) In no circumstances shall the pensionable emoluments taken for the purpose of computing the pension or gratuity of any officer exceed the full annual pensionable emoluments enjoyed by the officer at the date of his retirement in respect of the office then held by him.

19. Only service in a pensionable office (not being service in respect of which the officer is entitled to a gratuity in lieu of pension or to benefit under any other scheme of superannuation) shall be taken into account as pensionable service:

Service in non-pensionable office.

Provided that—

- (a) where a period of service in a civil capacity otherwise than in a pensionable office (not being service in respect of which the officer is entitled to a gratuity in lieu of pension) is immediately followed by service in a pensionable office and the officer is confirmed therein, such period may with the approval of the Governor in Council be so taken into account;
- (b) any break in service which may be disregarded under the provisions of regulation 15 of these Regulations may likewise be disregarded in determining for the purposes of the preceding provisions of this regulation whether one period of service immediately follows another period of service;
- (c) (i) where an officer has been transferred from a pensionable office in which he had been confirmed to an office which is not pensionable and subsequently retires either from a pensionable office or an office which is

not pensionable his service in the office which is not pensionable may, with the approval of the Governor in Council, be taken into account as though it were service in the pensionable office which he held immediately prior to such transfer and at the pensionable emoluments which were payable to him at the date of transfer;

- (ii) where a period of service in an office which is not pensionable is taken into account under this regulation, the officer shall, during that period, be deemed for the purpose of regulations 6, 22 and 23 to be holding a pensionable office, and where that period is taken into account under sub-paragraph (i) of paragraph (c) of this proviso to have been confirmed therein.

Acting service.

20. Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject, if the office is a non-pensionable office, to the provisions of the preceding regulation) if the period of such acting service —

- (a) is not taken into account as part of his pensionable service in other public service, and
- (b) is immediately preceded or followed by service in a substantive capacity in a pensionable office in the public service under the same government or authority,

and not otherwise.

Service under age of 20 or on probation or agreement.

21. Save as otherwise provided in these Regulations, there shall not be taken into account as pensionable service —

- (a) any period of service while the officer was under the age of twenty years, or
- (b) any period of service while he was on probation or agreement, unless without break of service he is confirmed in a pensionable office in the public service:

Provided that any break of service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service.

PART V

SUPPLEMENTARY

Abolition of office and reorganisation.

22. If an officer holding a pensionable office retires from the public service in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the department to which he belongs, by which greater efficiency or economy may be effected, he may —

- (a) if he has been in the public service for less than ten years, be granted in lieu of any gratuity under regulation 5 or regulation 12, a pension under regulations 4, 9, 10 or 11 as the case may be, as if the words "for ten years or more" were omitted from regulation 4;
- (b) if he retires from the public service under the Government of the Colony, be granted an additional pension at the annual rate of one two-hundred-and-sixteenth of his pensionable emoluments for each complete year of his pensionable service:

Provided that —

- (i) the addition shall not exceed thirty two-hundred-and-sixteenths; and
- (ii) the addition together with the remainder of the officer's pension shall not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching the age of fifty-five years, having received all increments for which he would have been eligible by that date.

Officers injured or contracting diseases in the discharge of their duties.

23. (1) This regulation shall apply to an officer who —

- (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.

(2) In this regulation unless the contrary intention appears, references to an officer being injured and to the date on which an injury is sustained shall respectively be construed as including references to him contracting such a disease as is mentioned in paragraph (1) of this regulation and to the date on which such disease is contracted.

(3) Where an officer to whom this regulation applies is holding a pensionable office in which he has been confirmed, he may —

- (a) if his retirement is necessitated or materially accelerated by his injury and he has been in the public service for less than ten years, be granted, in lieu of any gratuity under regulation 5 or regulation 12, a pension under regulations 4, 9, 10 or 11, as the case may be, as if the words "for ten years or more" were omitted from regulation 4;
- (b) if he was injured while in public service under the Government of the Colony be granted on retirement an additional pension, at the annual rate of the proportion of his actual pensionable emoluments at the date of his injury appropriate to his case as shown in the following table —

When his capacity to contribute to his own support is —

Slightly impaired	five sixtieths;
Impaired	ten sixtieths;
Materially impaired	fifteen sixtieths;
Totally destroyed	twenty sixtieths;

Provided that the amount of the additional pension may be reduced to such an extent as the Governor in Council shall think reasonable where the injury is not the cause or the sole cause of retirement.

- (4) (a) An officer to whom this regulation applies who is injured while in public service under the Government of the Colony and who holds a non-pensionable office, or who holds a pensionable office in which he has not been confirmed, may be granted on retirement, a pension of the same amount as the additional pension which may be granted to him under paragraph (3) of this regulation if his office were a pensionable office and he had been confirmed therein.
- (b) The provisions of regulation 24 shall not apply to a pension granted under this paragraph.
- (5) (a) If, for the purpose of assessing the amount of any additional pension or pension to be granted under subparagraph (b) of paragraph (3) or under paragraph (4) of this regulation to any officer to whom this regulation applies, the degree of permanent impairment of his capacity to contribute to his support is in doubt, he may be granted a provisional award to have effect until such time as his degree of permanent impairment can be determined.
- (b) The provisions of regulation 24 shall not apply to an award made under this paragraph.

(6) If an officer proceeding by a route approved by the Governor to or from the Colony at the commencement or termination of his public service under the Government of the Colony, or of a period of secondment, duty leave or leave therefrom, is injured as a result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against any such vessel, aircraft or vehicle, and the Governor in Council is satisfied that such damage or act is attributable to circumstances arising out of any war in which Her Majesty may be engaged, such officer shall be deemed for the purpose of this regulation to have been injured in the circumstances described in paragraph (1) of this regulation.

(7) An officer who is injured while travelling by air in pursuance of official instructions, and whose injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purpose of this regulation to have been injured in the circumstances described in paragraph (1) of this regulation:

Provided that in such a case the rates of pension prescribed in sub-paragraph (b) of paragraph (3) of this regulation shall be seven-and-a-half sixtieths, fifteen sixtieths, twenty-two-and-a-half sixtieths and thirty sixtieths respectively.

(8) Where compensation in consequence of the injury is payable under any law in force in the Colony which provides for the payment of workmen's compensation, or where benefits corresponding to an additional pension or pension under paragraph (3) or paragraph (4) of this regulation are payable, under the Oversea Superannuation Scheme or under the law in force in respect of any other public service, in consequence of the injury, the Governor may reduce or withhold any additional pension or pension payable under either paragraph (3) or paragraph (4) aforesaid in such manner as he may consider reasonable.

(9) (a) Where the Governor in Council is satisfied that damages have been or will be recovered by an officer in respect of an injury for which an additional pension or pension may be granted under sub-paragraph (b) of paragraph (3) or under paragraph (4) of this regulation, the Governor in Council may take these damages into account against such additional pension or pension in such manner and to such extent as he may think fit and may withhold or reduce the additional pension or pension accordingly.

(b) For the purpose of this paragraph an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of the court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

Gratuity and reduced pension.

24. (1) Any officer to whom a pension is granted under this Ordinance may at his option exercisable as in this regulation provided, be paid in lieu of such pension a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and a half times the amount by which such pension is reduced:

Provided that in the application of this regulation to cases where the limitation prescribed by subsection (2) of section 9 of this Ordinance operates, the words "such pension" shall mean the amount of pension which the officer might have drawn from the funds of the Colony if he had not exercised his option under this regulation.

(2) An option exercisable in accordance with this regulation —

- (a) shall be exercisable, and if exercised, may be revoked, on or before the date of the officer's retirement or, with the permission of the Governor, at any time between that date and the date of the final award of the pension granted to him under this Ordinance;
- (b) shall be exercised or revoked by notice in writing addressed either to the Secretary of State or to the Colonial Secretary;

(c) shall be deemed to have been exercised or revoked on the date on which such notice is received.

(3) If an officer who has not exercised an option in accordance with this regulation dies after he has retired but before a pension has been granted to him under this Ordinance, the Governor in Council may, if he thinks fit, grant to his legal personal representatives a gratuity and a reduced pension as provided in paragraph (1) of this regulation, as if the officer had exercised the option before his death.

25. (1) An officer not qualified for a pension or a gratuity under these regulations (other than a pension under regulation 23) or the Oversea Superannuation Scheme or to benefit under any other scheme of superannuation and who, having served for not less than five years is removed for reasons of old age, infirmity, reduction of establishment or who leaves public service under the Government of the Colony at his own request, may be granted a gratuity, and in the event of any such officer as aforesaid dying whilst in the service, a gratuity may be granted to his legal representative in amount not exceeding that to which the officer would have been entitled had he been retired for infirmity upon the day of his death.

Gratuities for officers who have served in non-pensionable offices.

(2) The rate at which a gratuity may be granted under paragraph (1) of this regulation shall not exceed —

- (a) for each year of public service under the Government of the Colony, up to five years, one week's pay; and
- (b) for each year of public service under the Government of the Colony in excess of five years and up to ten years, two weeks' pay; and
- (c) for each year of public service under the Government of the Colony in excess of ten years, four weeks' pay:

Provided that the total amount of the gratuity shall not exceed the amount of 52 weeks' pay.

(3) Notwithstanding the provisions of regulation 15, the service for the purpose of this regulation need not be unbroken but any period of service which has been terminated because of the officer's misconduct or in respect of which a pension, gratuity or other allowance has already been granted under the provisions of the Ordinance or the Oversea Superannuation Scheme or any other scheme of superannuation or any period during which the officer has been absent from duty on leave without pay unless such leave has been granted on grounds of public policy with the approval of the Governor shall not be taken into account for the purpose of this regulation.

(4) For the purpose of this regulation —

- (a) "pay" includes any allowance which the Governor in Council may think fit to include;
- (b) an officer who, having held a non-pensionable office, is serving on probation in a pensionable office, shall be deemed to hold a non-pensionable office and his pay shall be deemed to be the pensionable emoluments of the pensionable office or the pay last received by him in respect of his service in a non-pensionable office, whichever shall be the greater.

SCHEDULE
[Regulation 8 (1)]

Aden	Malawi
Antigua	Malayan Establishment
Bahamas	Malayan Union
Barbados	Malaysia
Basutoland	Malta
Bechuanaland Protectorate	Mauritius
Bermuda	Montserrat
British Antarctic Territory	Nigeria
British Guiana	North Borneo
British Honduras	Northern Nigeria
British Solomon Islands Protectorate	Northern Region of Nigeria
Brunei	Northern Rhodesia
Cayman Islands	Nyasaland
Crown Agents for Oversea Governments and Administrations	Oversea Audit Department (Home Establishment)
Dominica	Republic of Zambia
East Africa High Commission	Sabah
East African Common Services Organisation	St. Christopher, Nevis and Anguilla
East African Railways and Harbours Administration	St. Helena
Eastern Nigeria	St. Lucia
Eastern Region of Nigeria	St. Vincent
Employing Authorities under the Oversea Superannuation Scheme	Sarawak
Federal Republic of Nigeria	Seychelles
Federated Malay States	Sierra Leone
Federation of Malaya	Singapore
Federation of Nigeria	Somaliland Protectorate
Federation of Rhodesia and Nyasaland	Southern Cameroons
Fiji	Straits Settlements
Gambia	Swaziland
Ghana	Tanganyika
Gibraltar	The West Indies (Federation)
Gilbert and Ellice Islands	Tonga
Gold Coast	Trinidad and Tobago
Grenada	Turks and Caicos Islands
Hong Kong	Uganda
Interim Commission for the West Indies	Unfederated Malaya States
Jamaica	United Kingdom of Great Britain and Northern Ireland
Kenya	Virgin Islands
Kenya and Uganda Railways and Harbours Administrations	Western Nigeria
Leeward Islands (before 1.7.1956)	Western Pacific High Commission
	Western Region of Nigeria
	Zanzibar
	Service under the Overseas Service Act, 1958.

6 & 7 Eliz., 2. c. 14.

This printed impression has been carefully compared by me
with the Bill which has passed the Legislative Council, and is found
by me to be a true and correctly printed copy of the said Bill.



Acting Clerk of the Legislative Council.